



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

W. Sheppard Miller, III
Chairperson

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Agenda item # 8

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

January 16, 2024

MOTION

Made By: Mr. Fowlkes **Seconded By:** Mr. Laird

Action: Motion Carried, Unanimously

Title: Regulatory Reduction Program and Proposed Regulatory Amendments: Land Use Permit Regulations (24VAC30-151) and Vegetation Control Regulations on State Rights-of-Way (24VAC30-200)

WHEREAS, pursuant to the resolution titled *Approval of Notices of Intended Regulatory Action in Conjunction with Periodic Regulatory Review* approved at the Commonwealth Transportation Board's June 21, 2023, action meeting, the Virginia Department of Transportation (VDOT) filed the approved Notice of Intended Regulatory Action (NOIRA) and associated Agency Background Document for both the Land Use Permit Regulations (24VAC30-151) and the Vegetation Control Regulations on State Rights-of-Way (24VAC30-200) on the Virginia Regulatory Town Hall website to initiate the process of amending the regulations; and

WHEREAS, no comments were received during the 30-day public comment period held in conjunction with publication of the NOIRAs in the *Virginia Register of Regulations*; and

WHEREAS, this action was initiated to (i) fulfill the periodic regulatory review requirements of the Virginia Administrative Process Act (section 2.2-4000 *et seq* of the *Code of Virginia*) and Executive Order (EO) 19 (June 30, 2022) and (ii) pursue regulatory reduction in accordance with EO 19 and guidance from the Office of Regulatory Management (ORM) requiring each agency to reduce the agency's discretionary regulatory burden on the public by 25%, with reductions generally requiring amendment of regulations through the rulemaking process; and

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WHEREAS, VDOT conducted a full review of 24VAC30-151 and 24VAC30-200 pursuant to the ORM requirements and has identified opportunities for clarifying the regulatory language and streamlining the regulatory requirements through potential amendments to both regulations, as detailed in Attachments A (relating to the Land Use Permit Regulations (24VAC30-151)) and B (relating to the Vegetation Control Regulations on State Rights-of-Way (24VAC30-200)); and

WHEREAS, pursuant to the Administrative Process Act, the proposed amendments to the regulations must now be posted on the Virginia Regulatory Town Hall in conjunction with the Proposed stage of the regulatory process and published in the *Virginia Register of Regulations* for a public comment period of 60 days before the amended regulation may be finalized and become effective; and

WHEREAS, VDOT has completed an Agency Background Document (TH-02) to be filed on Town Hall in conjunction with the Proposed stage for each regulation (Attachments C, relating to the Land Use Permit Regulations, and D, relating to the Vegetation Control Regulations on State Rights-of-Way); and

WHEREAS, the Commonwealth Transportation Board originally adopted 24VAC30-151 and 24VAC30-200 pursuant to its authority set forth in §§ 33.2-210 and 33.2-1221 of the *Code of Virginia* and other relevant sections of the *Code of Virginia*, and is authorized to take action to amend, repeal or retain said regulations.

NOW, THEREFORE, BE IT RESOLVED that the Commonwealth Transportation Board hereby approves the proposed amendments to the Land Use Permit Regulations (24VAC30-151) and Vegetation Control Regulations on State Rights-of-Way (24VAC30-200), attached hereto (Attachments A and B).

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board directs the Commissioner of Highways or his designees to take all necessary actions to promulgate the amended regulations, filing the necessary forms, including the Proposed Regulation Agency Background Documents (Attachments C and D), as may be required by the Virginia Administrative Process Act.

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board authorizes and directs the Commissioner of Highways or his designees to complete the regulatory process for each of these regulations, including the Final Stage, and to bring Final amendments/a regulation back to the Board for approval, prior to finalization, only if public comments are received, substantive changes are suggested to the proposed amendments attached hereto, or additional amendments are suggested for that regulation.

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CTB Decision Brief

Regulatory Reduction Program and Proposed Regulatory Amendments: Land Use Permit Regulations (24VAC30-151) and Vegetation Control Regulations on State Rights-of-Way (24VAC30-200)

Issue: The Virginia Department of Transportation (VDOT) conducted a periodic review, in compliance with the requirements of the Virginia Administrative Process Act (APA), Executive Order (EO) 19 (June 30, 2022), and Office of Regulatory Management (ORM) procedures, of the Land Use Permit Regulations (24VAC30-151) and Vegetation Control Regulations on State Rights-of-Way (24VAC30-200) and at the direction of the Commonwealth Transportation Board (CTB) filed a Notice of Intended Regulatory Action (NOIRA) to advise the public of the intent to modify the regulations. VDOT is now recommending that the CTB advance specific changes to the regulations to the Proposed stage of the regulatory process.

Facts: Sections 2.2-4007.1 and 2.2-4017 of the *Code of Virginia* require that all state agencies that adopt regulations periodically review those regulations once every four years. EO 19 and the ORM guidance require each agency to reduce the agency's discretionary regulatory burden on the public by 25%. Reductions may be made by cutting discretionary regulatory requirements identified in the agency's regulatory baseline catalog or by streamlining regulatory requirements (i.e., reducing costs, time, etc.). Reductions generally require amendments to regulations which are accomplished using the rulemaking process.

VDOT's initial review of 24VAC30-151 and 24VAC30-200 indicated there were opportunities for clarifying the regulatory language and streamlining the requirements contained in each regulation. VDOT sought and received approval from the CTB on June 21, 2023, to move forward with NOIRAs for the two regulations to initiate the rulemaking process. VDOT filed the NOIRAs and associated Agency Background Documents on the Virginia Regulatory Town Hall, with no comments received during the 30-day public comment period.

As a result of VDOT's full review of 24VAC30-151 and 24VAC30-200, VDOT developed proposed regulatory amendments which are set out in Attachments A (relating to the Land Use Permit Regulations (24VAC30-151)) and B (relating to Vegetation Control Regulations on State Rights-of-Way (24VAC30-200)). VDOT has also completed an Agency Background Document (TH-02) to be filed on the Virginia Regulatory Town Hall in conjunction with the Proposed stage for each regulation (Attachments C, relating to the Land Use Permit Regulations and D, relating to the Vegetation Control Regulations).

Brief summaries of each regulation and the proposed amendments are provided below.

- **24 VAC 30-151 Land Use Permit Regulations**

The CTB promulgated the Land Use Permit Regulations pursuant to its general authority to make regulations “for the protection of and covering traffic on and for the use of systems of state highways” in § 33.2-210 of the *Code of Virginia*. These regulations set forth the policies

and procedures VDOT will use to issue permits on behalf of the CTB to perform work on state highways. The proposed regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Several changes will add administrative updates or bring the text in line with current practice. The proposed changes would also remove the Documents Incorporated by Reference (DIBR) and instead reference those documents in the terms of the land use permits that must be secured by regulated entities. These DIBR include standards and specifications with which regulated entities are required to comply. This will ensure the most relevant versions of the documents are being followed by regulated parties, more narrowly tailor requirements to the specific activity, and ease burdens on permittees in determining applicability.

Minor changes have been made to the draft proposed amendments and TH-02 for 24VAC30-151 (Attachments A and C) since they were provided to the CTB at its December 4, 2023, Workshop meeting. The proposed amendments to section 490 now reflect the inclusion of private and commercial entrances in the list of items for which a permit is required under that section, and corresponding updates were made to the TH-02. The TH-02 has also been updated with minor clarifying and formatting changes.

- **24 VAC 30-200 Vegetation Control Regulations on State Rights of Way**

VDOT has the authority to promulgate this regulation pursuant to § 33.2-1221(B)(3) of the *Code of Virginia* on selective pruning permits. The regulations establish procedures by which the outdoor advertising industry and businesses can remove vegetation to increase their visibility from a highway, in accordance with agency policies, procedures, and criteria.

The proposed regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Several changes will add administrative updates and bring the text in line with current practice. The proposed changes also include removal of the DIBR from this regulation and instead reference those documents in the terms of the land use permit that must be secured by regulated entities.

The proposed amendments would also allow cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs, by changing the limitation for cutting or pruning vegetation from vegetation with a trunk base diameter or limb diameter of 2 inches to vegetation with a trunk base diameter of less than six inches and limbs up to four inches in diameter. The inconsistency between the requirements for cutting and pruning in front of businesses and outdoor advertising make enforcement inconsistent. VDOT has also determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and impractical in many cases due to the rate of vegetation growth.

CTB Decision Brief

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Minor changes have been made to the draft proposed amendments and TH-02 for 24VAC30-200 (Attachments B and D) since they were provided to the CTB at its December 4, 2023, Workshop meeting. The proposed amendments to section 20 now reflect the inclusion of native flowering trees along with dogwoods as trees which shall not be removed, unless undesirable. The proposed amendments to section 30 now reflect the full elimination of the “chipped and beneficially used” verbiage to discourage leaving wood chips on site. Revisions were made to the TH-02 to reflect these changes.

VDOT is seeking approval from the CTB to move forward with the Proposed stage of the regulatory process for the amendments to 24VAC30-151 and 24VAC30-200. This will entail posting the proposed regulatory amendments and necessary forms, including the Proposed Regulation Agency Background Documents/TH-02s, to Town Hall and publication of the Proposed stages in the *Virginia Register of Regulations*, upon which the 60-day public comment period will commence. VDOT also seeks authorization from the CTB to complete the Final stage of the regulatory process, which will entail a final 30-day public comment period, and to finalize the regulatory amendments provided no public comments are received or substantive amendments to the regulations are proposed between the Proposed and Final stages.

Recommendations: VDOT recommends the CTB authorize VDOT to file the Proposed regulatory stages, including the proposed amendments and associated Agency Background Documents, for 24VAC30-151 and 24VAC30-200.

Action Required by CTB: The CTB will be presented with a resolution and the corresponding proposed regulatory amendments and Agency Background Documents for a formal vote.

Result, if Approved: VDOT will advance the proposed amendments to 24VAC30-151 and 24VAC30-200 through the regulatory process by filing the Proposed stage. VDOT will also file the Final stage upon conclusion of the Proposed stage if no public comments are received or substantive changes are made to the proposed amendments.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: No comments were received during the 30-day public comment period held in conjunction with publication of the NOIRAs in the *Virginia Register of Regulations*.

Project 7620 - Proposed**Department of Transportation****Proposed**

Chapter 151

Land Use Permit Regulations

24VAC30-151-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

"Backfill" means replacement of suitable material compacted as specified around and over a pipe, conduit, casing, or gallery.

"Boring" means a method of installation that is done underground and by which a carrier or casing is jacked through an oversize bore. The bore is carved progressively ahead of the leading edge of the advancing pipe as soil is forced back through the pipe. Directional drilling, coring, jacking, etc., are also considered boring.

"Carrier" means a pipe directly enclosing a transmitted liquid or gas.

"Casing" means a larger pipe enclosing a carrier.

"~~Central Office Permit Manager~~office permit manager" means the VDOT employee assigned to provide management, oversight, and technical support for the ~~state-wide~~VDOT land use permit program.

"Chief Engineer" means the VDOT employee in overall supervision of engineering functions for the Department or his designee.

"Clear zone" means the total border area of a roadway, including, if any, parking lanes or planting strips, that is sufficiently wide for an errant vehicle to avoid a serious accident. ~~Details on the clear zone are in VDOT's Road Design Manual (see 24VAC30-151-760).~~

"Code of Federal Regulations" or "CFR" means the regulations promulgated by the administrative and regulatory agencies of the federal government.

"Commercial entrance" means any entrance ~~servicing land uses other than two or fewer individual private~~

~~residences, agricultural operations to obtain access to fields, or civil and communication infrastructure facilities that generate 10 or fewer trips per day such as cell towers, pump stations, and stormwater management basins. (See "private entrance.")~~other than a private entrance.

"Commissioner of Highways" means the individual serving as the chief executive officer of the Virginia Department of Transportation or a designee.

"Commonwealth" means the Commonwealth of Virginia.

"Conduit" means an enclosed tubular runway for carrying wires, cable or fiber optics.

"Cover" means the depth of the top of a pipe, conduit, or casing below the grade of the roadway, ditch, or natural ground.

"Crossing" means any utility facility that is installed across the roadway, either perpendicular to the longitudinal axis of the roadways or at a skew of no less than 60 degrees to the roadway centerline.

"District administrator" means the VDOT employee assigned the overall supervision of the departmental operations ~~in~~for one of the Commonwealth's ~~nine~~VDOT's construction and maintenance districts.

"District administrator's designee" means the VDOT employee(s) assigned by the district administrator to supervise land use permit activities ~~by the district administrator.~~

"District roadside manager" means the VDOT employee assigned to provide management, oversight and technical support for district-wide vegetation program activities.

"Drain" means an appurtenance to discharge liquid contaminants from casings.

"Encasement" means a structural element surrounding a pipe.

"Erosion and sediment control" means the control of soil erosion or the transport of sediments caused by the natural forces of wind or water.

"Grounded" means connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

"Highway," "street," or "road" means a public way for purposes of vehicular travel, including the entire area within the right-of-way.

"Limited access highway" means a highway especially designed for through traffic, over which abutters have no easement or right of light, air, or access by reason of the fact that their property abuts upon such

limited access highway.

"Longitudinal installations" means any utility facility that is installed parallel to the centerline of the roadway or at a skew of less than 60 degrees to the roadway centerline.

~~"Manhole" means an opening in an underground system that workers or others may enter for the purpose of making installations, inspections, repairs, connections and tests.~~

"Median" means the portion of a divided highway that separates opposing traffic flows.

~~"Nonbetterment~~Non-betterment cost" means the cost to relocate an existing facility as is with no improvements.

"Permit" means a document that, in conjunction with the laws of the Commonwealth, sets the requirements, terms and conditions under which VDOT allows its right-of-way to be used or changed by a permittee.

"Permit agreement" means an agreement supplementary to a permit, that sets out additional conditions for the enjoyment of the permit that have been agreed to by the permittee and VDOT.

"Permittee" means the person ~~or~~, persons, firm, corporation, entity or government entity that has been issued a ~~land use~~ permit.

"Pipe" means a tubular product or hollow cylinder made for conveying materials.

"Pole line" means poles or a series or line of supporting structures such as towers, cross arms, guys, racks (conductors), ground wires, insulators and other materials assembled and in place for the purpose of transmitting or distributing electric power or communication, signaling and control. It includes appurtenances such as transformers, fuses, switches, grounds, regulators, instrument transformers, meters, equipment platforms and other devices supported by poles.

~~"Power line" means a line for electric power or communication services.~~

"Pressure" means relative internal pressure in pounds per square inch gauge (psig).

"Private entrance" means an entrance that serves up to two private residences and is used for the exclusive benefit of the occupants of those residences or an entrance that allows agricultural operations to obtain access to fields or an entrance to civil ~~and/or~~ communication infrastructure facilities that generate 10 or fewer trips per day such as cell towers, pump stations, and stormwater management basins.

"Professional engineer" means a person who is qualified to practice engineering by reason of his

special knowledge and use of mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and experience, and whose competence has been attested by the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects through licensure as a professional engineer.

"Relocate" means to move or reestablish existing facilities.

"Right-of-way" means that property within the system of state highways that is open or may be opened for public travel or use or both in the Commonwealth. This definition includes those ~~public~~ rights-of-way in which the Commonwealth has a prescriptive easement for maintenance and public travel. The property within a right-of-way includes the travel way and associated boundary lines, the subsurface below and air above the property, parking and recreation areas, rest and service areas, and other permanent easements for a specific purpose appurtenant to the right-of-way. As used herein, the term also include highway and VDOT-owned property.

"Roadside" means the area adjoining the outer edge of the roadway. The median of a divided highway may also be considered a "roadside."

"Roadway" means the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

"Service connections" means any utility facility installed overhead or underground between a distribution main, pipelines, conduits, lines, wires or other sources of supply and the premises of the individual customer.

"Shared resource agreement" means an agreement or permit allowing one or more utilities to occupy the limited access right-of-way consistent with the requirements of sections 30 and 740.

"Site plan" means the engineered or surveyed drawings depicting proposed development of land.

"Storm sewer" means the system containing and conveying roadway drainage.

"Stormwater management" means the engineering practices and principles used to intercept stormwater runoff, remove pollutants and slowly release the runoff into natural channels to prevent downstream flooding.

"Structure" means that portion of the transportation facility that spans space, supports the roadway, or

retains soil. This definition includes, but is not limited to, bridges, tunnels, drainage structures, retaining walls, sound walls, signs, traffic signals, etc.

"System of state highways" means all highways, streets and roads under the ownership, control, or jurisdiction of VDOT, including but not limited to, the primary, secondary and interstate systems.

"Telecommunication service" means the offering of telecommunications for a fee directly to the public or to privately, investor- or cooperatively owned entities.

"Transportation project" means a ~~public~~ project in development or under construction to provide a new public transportation facility or to improve or maintain the existing system of state highways.

"Traveled way" means the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

"Trenched" means installed in a narrow, open excavation.

"Underground utility facilities" means any item of public or private property placed below ground or submerged for use by the utility.

"Utility" means a privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing telecommunications, cable television, electricity, gas, oil, petroleum products, water, steam, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system.

"VDOT" means the Virginia Department of Transportation ~~or the Commissioner of Highways~~.

"Vent" means an appurtenance to discharge gaseous contaminants from a casing or carrier pipe.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wireless support structure agreement" means a permit agreement, a shared resource agreement and/or permit complying with the requirements of Chapter 15.1 of Title 56 of the Code of Virginia concerning the construction of wireless support structures, communication pedestals, nodes, and amplifiers.

24VAC30-151-20. Authority.

The General Rules and Regulations of the Commonwealth Transportation Board (see 24VAC30-151-

~~76021)~~ are adopted pursuant to the authority of §§ 2.2-1151.1, 33.2-118, 33.2-210, 33.2-240, 33.2-241, 33.2-245, 33.2-266, 33.2-338, 33.2-357, 56-458, 56-460, 56-484.28, and 56-484.30 through 56-484.32 of the Code of Virginia, and in accordance with the Virginia Administrative Process Act (Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia). These rules and regulations provide that no work or non-transportation uses of any nature shall be allowed or performed on the system of state highways or any right-of-way or real property under the ownership, control, or jurisdiction of VDOT until written permission has been obtained from VDOT. Real property includes, but is not limited to, the right-of-way of any highway in and the system of state highways system. Written permission is granted either by permit pursuant to this chapter or a state-authorized contract let by VDOT or the Commonwealth Transportation Board. ~~By issuing a permit, VDOT is giving permission only for~~ A permit grants the permittee only those rights set forth in the permit and only to the extent of whatever rights VDOT has in the right-of-way; the. The permittee is responsible for obtaining permission from others who may also have an interest in the property or right-of-way and for satisfying all other applicable legal requirements, whether federal, state or local. Employees of VDOT are authorized to issue permits only as described in this chapter. This chapter prescribes the specific requirements of such permits.

24VAC30-151-30. PermitsTypes of permits and permit agreements.

A. ~~The following shall apply to all authorized use or occupancy of the right-of-way:~~

- ~~1. A permit is required for any type of utility activity occurring within the right-of-way.~~
- ~~2. A permit is required to install any entrance onto a state highway.~~
- ~~3. A permit is required to perform surveying operations within the right-of-way.~~
- ~~4. A permit is required for any agricultural and commercial use and occupancy of the right-of-way.~~
- ~~5. A permit is required for any miscellaneous activity or use of the right-of-way except for mailboxes and newspaper boxes (see 24VAC30-151-560) and public service signs (see 24VAC30-151-570).~~

B. ~~Single use permits. A single use permit allows the permittee to perform any approved~~ specific activities within limited access or nonlimited access right-of-way or VDOT property at a specific location and which are not otherwise covered by a districtwide permit held by the permittee within limited access and nonlimited access rights of way at a specific location.

The district administrator's designee shall be responsible for the issuance of all single use permits, except that ~~these~~ requests for a permit for tree trimming and tree removal may be issued by the district

roadside manager in consultation with the district administrator's designee. The size of the specific location covered by a single use permit shall be at the discretion of the district administrator's designee ~~and may cover work up to two miles along the right-of-way (see 24VAC30-151-40).~~ The ~~land use~~ permit issued for the original installation of facilities also allows the permittee to repair or perform routine maintenance operations to ~~existing~~those facilities after installation. A single use permit shall be ~~required when obtained prior to the undertaking of~~ the following actions ~~are proposed~~, even if the activities being conducted are ~~normally~~may be allowed under a districtwide permit:

1. Stopping or impeding highway travel in excess of 15 minutes or implementing traffic control that varies from the standard, or any combination of these, as outlined in the Virginia Work Area Protection Manual (see 24VAC30-151-760315).
2. Performing work within limited access right-of-way.
3. Trimming or cutting any trees located within the right-of-way.
4. Applying any pesticide or landscaping within the right-of-way.
5. Construction of a permanent entrance to a ~~state~~ highway.
6. Cutting or disturbing highway pavement, shoulders or ditches.
7. Installing electrical lines that exceed 34.5 KV.
8. Installing telecommunication services that exceed 100 pair copper cable or the fiber-optic cable diameter equivalent.
9. Making permanent upgrades to an existing entrance. Temporary improvements to an existing entrance that will be removed upon the completion of the permitted activity will not require a separate single use permit.
10. Grading within the right-of-way beyond the immediate area of a temporary entrance.

GB. Districtwide permits. A districtwide permit allows the permittee to perform multiple occurrences of certain activities on nonlimited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. VDOT may authorize districtwide permits covering multiple districts (see 24VAC30-151-section 710).

~~The following is a list of acceptable activities under the jurisdiction of districtwide permits:~~

4. Utilities.

~~a. Districtwide permits may be issued granting cities, towns, counties, public agencies, or utility companies the authority to install and maintain service connections to their existing main line facilities. Work under a districtwide permit will allow the permittee to install a service connection across a nonlimited access primary or secondary highway above or below ground, provided the installation can be made from the side of the roadway without impeding travel for more than 15 minutes to pull or drop a service line across a highway, and provided no part of the roadway pavement, shoulders and ditch lines will be disturbed. The installation of parallel utility service connections, not to exceed 500 feet in length, shall be placed along the outer edge of the right-of-way with a minimum of 36 inches of cover. Telecommunications and cable television service connections may be placed with a minimum of 18 inches of cover; however the permittee assumes full responsibility for any and all damages caused by VDOT or VDOT contractors resulting from a service connection buried with less than 30 inches of cover within the right-of-way.~~

~~A districtwide permit allows for the overlashing of telecommunication lines onto existing lines or strand.~~

~~b. A separate single use permit will be required when the following activities associated with the installation and maintenance of utility service connections are proposed:~~

~~(1) Cutting highway pavement or shoulders, or both, to locate underground utilities.~~

~~(2) Working within the highway travel lane on a nonemergency basis.~~

~~(3) Constructing a permanent entrance.~~

~~(4) Installing electrical lines that exceed 34.5 KV.~~

~~(5) Installing telecommunication services that exceed 100 pair copper cable or the fiber optic cable diameter equivalent.~~

~~(6) Installing new pole, anchors, parallel lines, or casing pipe extensions to existing utilities where such installation necessitates disturbance to the pavement, shoulder, or ditch line.~~

~~(7) Installing underground telephone, power, cable television, water, sewer, gas, or other service connections or laterals where the roadway or ditch lines are to be disturbed.~~

~~c. The installation of parallel utility service connections, not to exceed 500 feet in length, shall be placed along the outer edge of the right-of-way with a minimum of 36 inches of cover. Telecommunications and cable television service connections may be placed with a minimum of 18 inches of cover; however the permittee assumes full responsibility for any and all damages caused by VDOT or VDOT contractors resulting from a service connection buried with less than 30 inches of cover within the right-of-way.~~

~~d. A districtwide permit allowing the installation and maintenance of utility service connections may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:~~

~~(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate Regional Traffic Engineer should be consulted to select or tailor the proper traffic control devices. Each flag person must be certified by VDOT and carry a certification card when flagging traffic and have it readily available for inspection when requested by authorized personnel.~~

~~(2) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that requires the issuance of a single use permit.~~

~~e. The permittee must obtain single use permits from the district administrator's designee to continue the installation and maintenance of utility service connections during this revocation period.~~

~~2. Temporary logging entrances.~~

~~a. Districtwide permits may be issued for the installation, maintenance, and removal of temporary entrances onto nonlimited access primary and secondary highways for the purpose of harvesting timber.~~

~~b. A separate single use permit is required when the following activities associated with timber harvesting operations are proposed:~~

~~(1) Installing a permanent entrance.~~

~~(2) Making permanent upgrades to an existing entrance. Improvements to existing entrances~~

~~that are not permanent upgrades will not require a separate single use permit.~~

~~(3) Cutting pavement.~~

~~(4) Grading within the right-of-way beyond the immediate area of the temporary entrance.~~

~~c. A logging entrance permit may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:~~

~~(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate district traffic engineer should be consulted to select or tailor the proper traffic control measures. Each flag person must be certified by VDOT and carry a certification card and have it available for inspection upon request by authorized VDOT personnel.~~

~~(2) The permittee shall contact the appropriate district administrator's designee prior to installing a new logging entrance or initiating the use of an existing entrance for logging access.~~

~~(3) The permittee shall contact the appropriate district administrator's designee for final inspection upon completion of logging activities and closure of the temporary entrance.~~

~~(4) The permittee shall restore all disturbed right-of-way at the temporary entrance, including but not limited to ditches, shoulders, and pavement, to pre-activity condition subject to acceptance by the appropriate district administrator's designee.~~

~~(5) The permittee shall remove excessive mud and any debris that constitutes a hazardous condition from the highway pursuant to a request from the appropriate district administrator's designee. Noncompliance may also result in the issuance of a separate citation from the Virginia State Police or a local law enforcement authority.~~

~~(6) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that requires the issuance of a single use permit.~~

~~d. The permittee must obtain single use permits from the appropriate district administrator's designee to continue accessing state maintained highways for the purpose of harvesting timber during this revocation period.~~

~~3. Surveying.~~

~~a. Districtwide permits may be issued for surveying operations on nonlimited access primary and secondary highways subject to the following:~~

~~(1) No trees are to be trimmed or cut within the right-of-way.~~

~~(2) No pins, stakes, or other survey markers that may interfere with mowing operations or other maintenance activities are to be placed within the right-of-way.~~

~~(3) No vehicles shall be parked so as to create a traffic hazard. Parking on through lanes is strictly prohibited.~~

~~b. A separate single use permit is required when the following surveying activities are proposed:~~

~~(1) Entering onto limited access right-of-way. Consideration for the issuance of such permits will be granted only when the necessary data cannot be obtained from highway plans, monuments, triangulation, or any combination of these, and the applicant provides justification for entry onto the limited access right-of-way.~~

~~(2) Stopping or impeding highway travel in excess of 15 minutes or varying the implementation of standard traffic control, or any combination of these, as outlined in the Virginia Work Area Protection Manual (see 24VAC30-151-760).~~

~~(3) Trimming or cutting any trees located within the right-of-way.~~

~~(4) Cutting highway pavement or shoulders to locate underground utilities.~~

~~c. A districtwide permit for surveying activities may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit or any of the requirements of this chapter, including but not limited to any, all, or a combination of the following:~~

~~(1) The permittee shall implement all necessary traffic control in accordance with the Virginia Work Area Protection Manual (see 24VAC30-151-760). When warranted, the appropriate Regional Traffic Engineer should be consulted to select or tailor the proper traffic control devices. Each flag person must be certified by VDOT and carry a certification card when flagging traffic and have it readily available for inspection when requested by authorized personnel.~~

~~(2) The permittee shall not perform any activity under the jurisdiction of a districtwide permit that~~

~~requires the issuance of a single use permit.~~

~~d. The permittee must obtain single use permits from the district administrator's designee to continue surveying activities during this revocation period.~~¹ Utility service connections. Districtwide permits may be issued granting cities, towns, counties, public agencies, or utility providers the authority to install and maintain service connections to their existing main line facilities. Work under a districtwide permit will allow the permittee to install a service connection across a nonlimited access primary or secondary highway above or below ground, provided the installation can be made from the side of the roadway without impeding travel for more than 15 minutes to pull or drop a service line across a highway, and provided no part of the roadway pavement, shoulders and ditch lines will be disturbed. The installation of longitudinal utility service connections, not to exceed 500 feet in length, may be accomplished under a districtwide permit upon satisfaction of the following conditions: (i) the service connection shall be placed along the outer edge of the right-of-way; (ii) the service connection shall have a minimum of 36 inches of cover; and (iii) an as-built plan of such longitudinal installation shall be provided to the district administrator's designee. Notwithstanding the provisions of this subdivision, telecommunications and cable television service connections may be placed with a minimum of 18 inches of cover, provided the permittee accepts and assumes full responsibility and liability for any and all damages caused by VDOT, VDOT contractors or third-parties disturbing a service connection buried with less than 30 inches of cover within the right-of-way. A districtwide permit allows for the overlashing of telecommunication lines onto existing lines or strands, unless such overlashing activities trigger the requirements for utilizing a single use permit.

2. Temporary logging entrances. Districtwide permits may be issued for the installation, maintenance, and removal of temporary entrances onto nonlimited access primary and secondary highways for the purpose of harvesting timber. The permittee shall contact the appropriate district administrator's designee (i) prior to installing a new logging entrance or initiating the use of an existing entrance for logging access and (ii) for final inspection upon completion of logging activities and closure of the temporary entrance. The permittee shall remove excessive mud and any debris that constitutes a hazardous condition from the highway at the permittee's sole cost upon a request from the district administrator's designee.

3. Surveying. Districtwide permits may be issued for surveying operations on nonlimited access primary and secondary highways if such activity does not involve (i) tree trimming or cutting within the right-of-way, (ii) the installation of pins, stakes, or other survey markers that may interfere with mowing operations or other maintenance activities within the right-of-way, or (iii) the parking of vehicles so as to create a traffic hazard. Parking on the traveled way is strictly prohibited.

DC. In-place permits. In-place permits allow utilities to remain within the right-of-way of newly

constructed secondary streets. These utilities shall be installed according to VDOT approved street plans and shall be in place prior to VDOT street acceptance.

~~ED.~~ Prior-rights permits. Prior-rights permits allow existing utilities with existing facilities within the right-of-way to remain in place that as long as those facilities are not in conflict with transportation improvements authorized under the auspices of a land use permit a transportation project or other use of the right-of-way by the public or the Commonwealth.

~~FE.~~ As-built permits. Agreements for the relocation of utilities found to be in conflict with Utility facilities required to be relocated within a right-of-way due to a conflict with a transportation project or other use of the right-of-way by the public or the Commonwealth may stipulate that be issued an as-built permit will be issued upon completion of the project and the mutual agreement between VDOT and the utility for such relocation.

~~GE.~~ Agreements. In addition to obtaining a single use permit, a utility may be required to enter an agreement with VDOT allowing the utility to use the limited access right-of-way in exchange for monetary compensation, the mutually agreeable exchange of goods or services, or both.

~~1. Permit agreement. A permit~~ An agreement is required for:

- a. Any new longitudinal occupancy of the limited access right-of-way or median where none have existed before, as allowed for in ~~24VAC30-151-sections~~ 300 and 24VAC30-151-310.
- b. Any ~~new communication tower or small site facilities installed within the right of way, as allowed for in 24VAC30-151-350~~ occupancy of a VDOT-owned wireless support structure.
- c. ~~Any perpendicular crossing of limited access right-of-way, as allowed for in 24VAC30-151-310~~

All ~~permit~~ agreements shall specify the terms and conditions required in conjunction with work performed within the right-of-way. If appropriate, all agreements Agreements shall provide for the payment of monetary compensation as may be in the amount deemed proper appropriate by the Commissioner of Highways for the privilege of utilizing the right-of-way.

~~2. Shared resource agreement. A~~ Consistent with the requirements of section 740, a shared resource agreement allows the utility one or more utilities to occupy the limited access right-of-way in exchange for the each such utility providing the needed VDOT facility or a combination of goods, facilities, services, or monetary compensation to VDOT. VDOT The Commissioner of Highways and

~~the~~each such utility will agree upon the appropriate goods, facilities, or services to be provided and will establish, the length of the term that will be compensated through the infrastructure needs, and compensation through the provision of a particular service, facility, or monetary compensation, or both a combination thereof. Any shared resource agreement shall also provide for compensation as may be deemed ~~proper~~appropriate by the Commissioner of Highways in any renewal term. The shared resource agreement shall specify the initial and renewal terms of the lease.

G. Notwithstanding the provisions of this section, no permit shall be required for placement of mailboxes and newspaper boxes in accordance with section 560 and placement of certain signs in accordance with section 570.

24VAC30-151-40. General rules, regulations and requirements.

A. A ~~land use~~ permit is valid only on ~~highways and rights-of-way~~right-of-way under VDOT's jurisdiction and on VDOT-owned property. ~~This permit neither implies nor grants otherwise.~~ County and city permits must be secured for work on roads and streets under their jurisdictions. A ~~land use~~ permit covers the actual performance of work within ~~highway rights-of-way~~right-of-way and the subsequent maintenance, adjustments or removal of the work as approved by the central office permit manager or the district administrator's designee. ~~Permits for communications facility towers may only be issued by the Commissioner of Highways.~~ The ~~Commissioner of Highways~~Chief Engineer shall approve all activities within limited access right-of-way prior to permit issuance. ~~All permits shall be issued to~~A permit must be obtained by the owner of the facility to be used or located within highway rights-of-way right-of-way or VDOT-owned property or the adjacent property owner in the case of entrance permits. ~~Permits~~A permit may be issued jointly to the owner and ~~his~~its contractor ~~as if the contractor is the owner's authorized agent.~~ The applicant~~the permittee and its contractors and agents~~ shall comply with all applicable federal, state, ~~county and municipal~~and local laws and requirements. The terms of every permit include and incorporate by reference this chapter as well as all federal, state, and local requirements applicable to a permittee's activities under the permit.

B. Application shall be made for a district-wide permit through the central office permit manager and for single use permits ~~from~~through the district administrator's designee responsible for the county where the work is to be performed. The applicant shall submit site plans or sketches for proposed installations within the right-of-way to VDOT for review, with studies necessary for approval. VDOT may require electronic submission of these documents. Where work is of a continuous nature along one route, or on several

routes within one jurisdiction, it may be consolidated into one permit application. ~~For single use permits, such consolidation shall not be for a length greater than two miles.~~ The applicant shall also submit any required certifications for staff performing or supervising the work, and certification that applicable stormwater management requirements are being met. The plans shall include the ultimate development and also any applicable engineering design requirements. VDOT retains the authority to deny an application for or revoke a land use permit to ensure the safety, use, or maintenance of the highway right-of-way, or in cases where a law has been violated relative to the permitted activity.

~~C. The proposed installation granted by this permit shall be constructed exactly as shown on the permit or accompanying sketch. Distances from edge of pavement, existing and proposed right-of-way line, depths below existing and proposed grades, depths below ditch line or underground drainage structures, or other features shall be shown. Any existing utilities within close proximity of the permittee's work shall be shown. Location of poles, guys, pedestals, relief valves, vent pipes, etc. shall be shown. Height of wires or cables above the crown of the roadway shall be shown.~~The permittee shall comply with the terms of the permit. The permittee shall construct and use each facility proposed to be used or installed pursuant to a permit exactly as shown on the approved permit application, including but not limited to:

1. Showing distances from edge of pavement, existing and proposed right-of-way lines, depths below existing and proposed grades, depths below ditch line or underground drainage structures or other features.

2. Showing any existing utilities within close proximity of the applicant's proposed work or use.

3. Showing the location of poles, guys, pedestals, relief valves, vent pipes, etc.

4. Showing the height of wires or cables above the crown of the roadway.

D. In the event of an emergency situation that requires immediate action to protect persons or property, work may proceed within the right-of-way without authorization from the district administrator's designee; however, the permittee must contact the VDOT Emergency Operations Center as soon as reasonably possible but no later than 48 hours after the end of the emergency situation.

E. ~~The land use permit is not valid unless signed by the central office permit manager or the district administrator's designee.~~

F. The permittee shall secure and ~~carry sufficient~~maintain commercial general liability insurance to protect against liability for personal injury and property damage ~~that may arise from the work performed~~

under the authority of a land use permit and from the operation of the permitted activity in connection with all activities undertaken under a permit. Comprehensive general liability insurance with limits of at least \$1,000,000 per occurrence and \$5,000,000 aggregate, or in amounts otherwise required by VDOT as stated in the permit, shall be maintained at all times. Insurance must be obtained prior to start of permitted work and shall remain valid through the permit completion date. The central office permit manager or the district administrator's designee may require a valid certificate ~~or letter~~ of insurance or policy documents from the issuing insurance agent or agency prior to issuing ~~the land use~~ permit.

G. The permittee assumes full responsibility for any and all damages caused by facilities installed or uses undertaken under a permit. The permittee must make every effort to install its facilities in a manner to preclude the possibility of damage.

H. The permittee is responsible for the continued maintenance of its facilities placed within a right-of-way.

I. VDOT and the Commonwealth shall be absolved from all responsibilities, damages and liabilities associated with granting the permit and the permittee's activities in the right-of-way, including activities performed by the permittee's contractors or agents. All facilities shall be placed and maintained in a manner to preclude the possibility of damage to VDOT owned facilities or other facilities placed within the highway right-of-way by permit. A permittee shall indemnify and hold harmless the Commonwealth, the Commonwealth Transportation Board, the Commissioner of Highways, VDOT, and their consultants, representatives, agents and employees from and against any and all claims, causes of action, losses, costs, attorney's fees, expenses, and damages that directly or indirectly results from or arises out of the permittee's activities or violations in the right-of-way or from any of the permittee's contractors, subcontractors, consultants, representatives, agents or employees, or from anyone for whose acts or violations the permittee is or may be liable. A permittee shall be civilly liable to the Commonwealth for all actual damage caused by a violation of the terms of a permit or this chapter. Injunctive remedies available to VDOT include, but are not limited to, providing private property access to VDOT to rectify concerns to public safety in the right-of-way caused by violations of the permit or this chapter.

HJ. A copy of the land use permit and approved site plans or sketches shall be maintained at every job site and such items made readily available for inspection when requested by VDOT or any authorized personnel. Strict adherence to the permit is required at all times. Any activity other than that described in the permit shall render the permit null and void. Any changes to the permit shall be coordinated and

approved by the district administrator's designee prior to construction.

~~K.~~ For permit work within the limits of a VDOT construction/transportation project, the permittee applicant must obtain the contractor's consent of the project's general contractor in writing before the permit will be issued. The permittee shall coordinate with VDOT and the project's general contractor and schedule all permitted work within the limits of a VDOT construction/transportation project to avoid conflicts with contracted work of the transportation project.

~~L.~~ All activity associated with the permit shall be in accordance with all federal, state and local requirements and all applicable VDOT requirements, standards, and specifications and as otherwise required by the terms of the permit.

~~M.~~ Disturbances within the right-of-way shall be kept to a minimum during permitted activities. Permit applications for proposed disturbances within the right-of-way that include disturbance on property directly adjacent to the right-of-way, in which the combined area of disturbance constitutes a land-disturbing activity as defined in § ~~40.1-560~~62.1-44.15:24 of the Code of Virginia and the Virginia Stormwater Management Program (VSMP) ~~Permit Regulations (see 24VAC30-151-7609)~~VAC25-870), must be accompanied by documented approval of erosion and sediment control plans and stormwater management plans for the activity, if applicable, from the corresponding jurisdictional local or state government plan approving authority.

~~KN.~~ Restoration shall be made in accordance with ~~VDOT Road and Bridge Specifications; VDOT Road and Bridge Standards; Virginia Erosion and Sediment Control Handbook, 3rd Edition, a technical guide to the Erosion and Sediment Control Regulations;~~standards and specifications as set forth in the terms of the permit and the Virginia Stormwater Management Handbook, 1st edition, Volumes 1 and 2, a technical guide to the Virginia Stormwater Management Program (VSMP) Permit Regulations (see 24VAC30-151-7609)VAC25-870).

Additionally, the permittee shall:

1. Ensure compliance with the Erosion and Sediment Control Regulations ~~and the Virginia Stormwater Management Program (VSMP) Permit Regulations (see 24VAC30-151-7609)~~VAC25-840).
2. Ensure copies of approved erosion and sediment control plans, stormwater management plans, if applicable, and all related non-VDOT issued permits are available for review and posted at every

job site at all times.

3. Take all necessary precautions to ensure against siltation of adjacent properties, streams, etc. in accordance with VDOT's policies and standards as specified in the terms of the permit and the Virginia Erosion and Sediment Control Handbook, 3rd edition, and the Virginia Stormwater Management Manual (see 24VAC30-151-760)any applicable requirements of the State Water Control Board.

4. Keep dusty conditions to a minimum by using VDOT-approved methods.

5. Cut pavement only as approved by the district administrator's designee. Pavement cuts, restoration and compaction efforts, to include all materials, shall be accomplished in accordance with VDOT ~~Road and Bridge Specifications (see 24VAC30-151-760)~~specifications as set forth in the terms of the permit.

6. Ensure that an individual certified by VDOT in erosion and sediment control is present whenever any land-disturbing activity ~~governed by~~under the permit is performed. All land disturbance activities performed under a ~~VDOT land use~~ permit shall be in accordance with all local, state, and federal ~~regulations~~requirements. The installation of underground facilities by a boring method shall only be deemed as a land-disturbing activity at the entrance and exit of the bore hole and not the entire length of the installation.

7. Stabilize all disturbed areas immediately upon the end of each day's work and reseed in accordance with VDOT ~~Road and Bridge Specifications (see 24VAC30-151-760)~~specifications as set forth in the terms of the permit. Temporary erosion and sediment control measures shall be installed in areas not ready for permanent stabilization.

8. Ensure that no debris, mud, water, or other material is allowed on the highways. Permission, documented in writing or electronic communication, must be obtained from VDOT prior to placing excavated materials on the pavement. When so permitted, the pavement shall be cleaned only by approved VDOT methods.

EQ. Accurate "as built" plans and profiles of work completed under permit shall be furnished to VDOT upon request, unless waived by the district administrator's designee. For utility permits, the owner shall maintain "as built" plans, profiles and records for the life of the facility that describe the utility usage, size, configuration, material, location, height or depth and special features such as encasement.

~~MP.~~ All work shall be performed in accordance with the Underground Utility Damage Prevention Act (Chapter 10.3 (§ 56-265.14 et seq.) of Title 56 of the Code of Virginia) and the Rules for Enforcement of the Underground Utility Damage Prevention Act (see ~~24VAC30-151-760~~20VAC5-309). For work within 1,000 feet of traffic signals or adjacent to other VDOT utilities, the permittee shall contact the ~~district administrator's designee prior to excavation~~VDOT Customer Service Center. The permittee shall notify VDOT on the business day preceding 48 hours before excavation.

~~NQ.~~ Permission, documented in writing or electronic communication, must be obtained from the district administrator's designee prior to blocking or detouring traffic. Additionally, the permittee shall:

- ~~1. Employ safety measures including, but not limited to, certified flaggers, adequate lights and signs.~~
- ~~2. Conduct all permitted activities in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and related special provisions (see 24VAC30-151-760) and the typical traffic control figures from the Virginia Work Area Protection Manual (see 24VAC30-151-760).~~
- ~~3. Plan construction and maintenance operations with regard to safety and minimum traffic interference.~~
- ~~4. Coordinate notification with all county or municipal officials.~~
- ~~5. Ensure that permitted work does not interfere with traffic during periods of peak flow on heavily traveled highways.~~
- ~~6. Plan work so that closure of intersecting streets, road approaches and other access points is held to a minimum and as noted and approved in the permit documents.~~
- ~~7. Maintain safe access to all entrances and normal shoulder slope of the roadway across the entire width of the entrance.~~

~~O.~~ All construction activities shall conform to Occupational Safety & Health Administration (OSHA) requirements.

~~PR.~~ The permittee shall be responsible for any settlement in the backfill or pavement ~~for a period of two years after the completion date of work activities under the permit, and for the continuing maintenance of the facilities placed within the highway right of way. A one-year restoration warranty period may be considered, provided the permittee adheres to the following criteria:~~

~~1. The permittee retains the services of a professional engineer (or certified technician under the direction of the professional engineer) to observe the placement of all fill embankments, pavement, and storm sewer and utility trench backfill.~~

~~2. The professional engineer (or certified technician under the direction of the professional engineer) performs any required inspection and testing in accordance with all applicable sections of VDOT's Road and Bridge Specifications (see 24VAC30-151-760).~~

~~3. The professional engineer submits all testing reports for review and approval, and provides written certification that all restoration procedures have been completed in accordance with all applicable sections of VDOT's Road and Bridge Specifications (see 24VAC30-151-760) prior to completion of the work authorized by the permit or for any settlement caused by the installed facility.~~

QS. The permittee shall immediately notify the nearest VDOT official who approved the land use permit district administrator's designee of involvement in any personal or vehicular accident at the work site.

RI. Stormwater management facilities or wetland mitigation sites shall not be located within VDOT rights-of-way unless the Commonwealth Transportation Board has agreed to participate in the use of a regional facility authorized by the local government. Stormwater management facilities or wetlands mitigation sites shall be designed and constructed to minimize impact within VDOT right-of-way. VDOT's share of participation in a regional facility will be the use of the right-of-way where the stormwater management facility or wetland mitigation site is located.

SU. The permittee shall notify, by telephone, voice mail message, or email, the VDOT office where the ~~land use~~ permit was obtained prior to commencement of the permitted activity or any nonemergency excavation within the right-of-way.

TV. Upon completion of the work under permit, the permittee shall provide notification, documented in writing or electronic communication, to the district administrator's designee requesting final inspection. This request shall include the permit number, ~~county name, route number,~~ and name of the party or parties to whom the permit was issued. The district administrator's designee shall promptly schedule an inspection of the work covered under the permit and advise the permittee of any necessary corrections. The permittee may not rely upon any act, statement, or failure to act on the part of VDOT with respect to inspection, nor shall the failure of VDOT to fully or properly inspect any work in any way excuse the permittee from any of its duties or obligations under the permit, law or regulation.

24VAC30-151-50. ~~Violations of rules and regulations~~ Objects in the right-of-way.

A. ~~Objects placed on, above, or under the right-of-way in violation of the general rules and regulations shall be removed within 10 calendar days of receipt of notice from VDOT. Objects not removed within 10 calendar days shall be moved at the owner's expense. Objects requiring immediate removal for public safety, use, or maintenance of any highway shall be moved immediately at the owner's expense. The provisions of § 33.2-1224 of the Code of Virginia shall govern the removal of advertisements from within the right-of-way. The provisions of § 33.2-1227 of the Code of Virginia shall govern the removal of other signs from within the right-of-way.~~

B. ~~The permittee will be civilly liable to the Commonwealth for expenses and damages incurred by VDOT as a result of violation of any of the rules and regulations of this chapter. Violators shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided for in § 33.2-210 of the Code of Virginia.~~

C. ~~Failure to implement proper traffic control and construction standards mandated by the permit shall be cause for the district administrator's designee to remove the permittee from the right of way or revoke the permit, or both.~~

D. ~~See 24VAC30-151-30 for violations related to specific district wide permit types.~~

24VAC30-151-80. Permit time limits and cancellations.

A. The permittee shall provide an estimate of the number of days needed to accomplish the work or use under permit. The district administrator's designee shall determine the actual time limit of all work or uses being accomplished under permit, ~~which shall not normally be less than six months in duration.~~ Weather conditions and seasonal operations such as seeding, paving, etc., will be considered when determining a realistic time limit for work to be completed.

B. ~~It shall be the responsibility of the permittee to ensure that the permitted activity will be completed within the time limit established with the original permit issuance.~~ If it is anticipated that the work or use covered by ~~the~~ a single use permit cannot be completed during the original permit term, the permittee shall provide a request, documented in writing or electronic communication, for an extension of time to the district administrator's designee prior to the expiration of the permit. The request shall provide reasonable justification for granting the extension. A one-time extension of time may be granted if the request is received at least 10 ~~calendar~~ business days prior to the ~~original~~ permit expiration date. Should the original time limit or the one-time permit extension expire, the permittee shall provide a written request for

reinstatement to the district administrator's designee. The request shall provide reasonable justification for granting the reinstatement. At the time of reinstatement, the district administrator's designee shall notify the permittee that no additional extensions of the permit will be allowed and that the work must be completed within the time limits indicated in the reinstatement notice. Consideration will not be given to an extension request for a permit that has been reinstated after an extension.

C. The permittee shall make every effort to ensure that work begins within 30 calendar days of permit issuance. If the permitted work cannot commence within 30 calendar days of permit issuance, the permittee shall notify the district administrator's designee of the delay. Upon request by the permittee, the permit may be cancelled if no work has started within 30 days of issuance or such additional time as authorized by the district administrator's designee.

24VAC30-151-90. Hours and days work authorized; holiday schedule.

Normal hours for work under the authority of a permit, ~~single use or districtwide~~, are from 9 a.m. to 3:30 p.m. Monday through Friday for all highways classified as arterial or collector. All highways classified as local roads will have unrestricted work hours and days.

~~Permitted non-emergency~~ Non-emergency work will not be allowed on arterial and collector highway classifications from noon on the preceding weekday through ~~the following~~ all state observed holidays: ~~New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.~~

If the observed holiday falls on a Monday, the ~~permit~~ non-emergency work will not be ~~valid~~ allowed from noon on the preceding Friday through noon on Tuesday. The district administrator's designee may establish alternate time restrictions in normal working hours and days for ~~single use~~ permits other than districtwide permits. The central office permit manager may establish alternate time restrictions in normal working hours and days for districtwide permits.

24VAC30-151-110. Denial; revocation; refusal to renew; violations.

A. A ~~land use~~ permit may be revoked or suspended upon written finding that the permittee ~~violated the terms of the permit, which shall incorporate by reference these rules, as well as state and local laws and ordinances regulating activities within the right of way. Repeated violations may result in a permanent denial of the right to work within the right of way~~ or its contractors or agents have violated or are in violation of any term of a permit or of any federal, state, or local requirement applicable to work or use under a permit, or that the work or use affects the safety, use, or maintenance of the right-of-way. Any permit may

be revoked and the facility for which it was issued required to be removed or relocated at the direction of the Commissioner of Highways if the facility or use obstructs or otherwise interferes with a transportation project or the safety, improvement, maintenance, or operation of a right-of-way. Unless otherwise specifically provided for by a law shifting the costs to another person or entity, all costs to remove or relocate the facilities or uses or otherwise resulting from the permit revocation shall be incurred and paid by the permittee. A permit may also be revoked for misrepresentation of information on the application, fraud in obtaining a permit, alteration of a permit, unauthorized use of a permit, or violation of a water quality permit. Upon revocation, the permit shall be surrendered without consideration for refund of fees. ~~Upon restoration of permit privileges a new land use permit shall be obtained prior to performing any work within the right-of-way.~~ A permit that has been suspended shall be noted as such for the suspension period and no work or use shall be allowed under a suspended permit. Any misrepresentations, fraudulent actions, or repeated violations may result in a permanent denial of the right to work within or use the right-of-way.

B. Revocation of Districtwide Permits. In addition to all other available remedies, a districtwide permit may be revoked for a minimum of 30 calendar days if the permittee violates the terms of the permit or any other law or regulation related to the permit or the permittee's activities in the right-of-way. A permittee will be provided written notice of the violation prior to their revocation. During the revocation period, the permittee must satisfy all requirements for and obtain single use permits from the district administrator's designee to undertake any activities within the right-of-way.

~~BC. Land use permits~~ Permits may be denied to any applicant or company, or both joint applicant, for a period not to exceed six months when the applicant or company, or both, has been notified in writing by the joint applicant, or its contractors or agents, have violated or are in violation of any term of a permit or of any federal, state, or local requirement applicable to work or use under a permit. Permits may also be denied to ensure the safety, use, or maintenance of the right-of-way. The Commissioner of Highways, the central office permit manager, district administrator, or district administrator's designee that shall provide the applicant and joint applicant with a written explanation of the violations have occurred under the jurisdiction of a districtwide or previously issued single use permit. Any person, firm, or corporation violating a water quality permit shall permanently be denied a land use permit upon which a permit denial is based and the actions required to cure the denial. A violation of a water quality permit held by a person, firm or corporation shall be a basis for denial of any future permit application by that person, firm or corporation.

D. Furthermore, these violators Violations of the terms of a permit or this chapter also may be subject to

criminal prosecution as provided for by § 33.2-210 of the Code of Virginia.

24VAC30-151-120. Provisions governing entrances. (Repealed.)

~~VDOT's authority to regulate highway entrances is provided in §§ 33.2-240, 33.2-241, and 33.2-245 of the Code of Virginia and its authority to make regulations concerning the use of highways generally is provided in § 33.2-210 of the Code of Virginia.~~

~~Regulations regarding entrances are set forth in VDOT's regulations promulgated pursuant to § 33.2-245 of the Code of Virginia (see 24VAC30-151-760).~~

24VAC30-151-220. Commercial use agreements. (Repealed.)

~~A. Where wider rights-of-way are acquired by VDOT for the ultimate development of a highway at such time as adequate funds are available for the construction of the highway, including such preliminary features as tree planting, the correction of existing drainage conditions, etc., the Commissioner of Highways does not consider it advisable to lease, rent, or otherwise grant permission for the use of any of the land so acquired except in extreme or emergency cases, and then only for a limited period.~~

~~When the land adjoining the highway is used for commercial purposes and where the existing road is located on the opposite side of the right-of-way, thereby placing the business from 65 feet (in the case of 110 feet right-of-way) to 100 feet or more (in the case of 160 feet right-of-way) away from the main traveled road, the owner of the business may continue to locate his driveways and pumps, in the case of a filling station, within the state right-of-way, provided that the driveways and pumps are at least as far from the edge of the existing pavement as existing driveways and pumps in evidence on the road are from the nearest edge of the pavement to their similar structures. No additional driveways or pumps may be constructed within the right-of-way. In such cases, agreements for "commercial uses" may be entered into for use of portions of the right-of-way for temporary or limited periods under the following policies and conditions:~~

- ~~1. Until such time as the Commissioner of Highways deems it necessary to use right-of-way acquired for future construction on a project for road purposes, agreements may be made with adjoining property owners for the temporary use of sections thereof. The use of this land shall be limited to provisions as set forth in the agreement, which shall cover commercial pursuits consistent with similar operations common to the highway. These operations and special conditions may include gasoline pumps, but not gasoline tanks.~~

~~2. The area of right-of-way designated for use of the landowner must not be used for the storing of vehicles, except while the vehicles are being serviced at the gasoline pumps. The area must be kept in a clean and orderly condition at all times.~~

~~B. Agreements may be revoked for cause or as outlined in subdivision A 1 of this section, either in whole or for any portion of the prescribed area that may be required for highway purposes, which may include one or more of the following:~~

- ~~1. The storage of road materials when other nearby suitable areas are not available;~~
- ~~2. The planting of trees and shrubs for permanent roadside effects;~~
- ~~3. The correction or improvement of drainage;~~
- ~~4. Development of wayside, parking or turnout areas; or~~
- ~~5. For other purposes as may be deemed necessary by the Commissioner of Highways.~~

~~C. Applications for agreements for commercial uses shall be made to the district administrator's designee. Agreements must be accompanied by a sketch showing the location of the roadway, shoulders, ditches and conditions existing within the right of way, together with description and plat of the area to be covered by it. The text of the application should describe the specific use for the site.~~

~~D. Agreements shall be issued only to owners of property adjoining the area to be used. Agreements may be made for terms not to exceed one year, subject to the cancellation terms in subsection C of this section. VDOT shall not be responsible in any way for the policing of areas subject to commercial agreements. No structures are to be erected on areas subject to commercial agreements without written approval of the Commissioner of Highways.~~

24VAC30-151-230. Agriculture use agreements. (Repealed.)

~~A. In cases where wider rights-of-way are acquired by VDOT for the ultimate development of a highway at such time as adequate funds are available for the construction of the same, including such preliminary features as tree planting, the correction of existing drainage conditions, etc., the Commissioner of Highways does not consider it advisable to lease, rent, or otherwise grant permission for the use of any of the land so acquired except in extreme or emergency cases, and then only for a limited period.~~

~~When this land is being used for agricultural purposes, which would necessitate the owner preparing other areas for the same use, agreements for agricultural uses may be entered into for use of portions of~~

~~the right of way for temporary or limited periods.~~

~~B. Agreements for agricultural uses may be made with adjoining property owners, until such time as the Commissioner of Highways deems it necessary to use right of way acquired for future construction on a project for road purposes. Agricultural use is not permitted on limited access highways. The use of this land will be limited to provisions as set forth in the agreement, which, in general, will cover agricultural pursuits the same as those carried out on adjoining lands and thereby made an integral part of the agreement. Operations and special conditions covering such operations may include one or more of the following:~~

- ~~1. Grazing of cattle and other livestock is permitted provided the area is securely enclosed by appropriate fence to eliminate any possibility of animals getting outside of the enclosure.~~
- ~~2. Forage crops such as hay, cereals, etc. are permitted provided that their growth will not interfere with the safe and orderly movement of traffic on the highway, and that, after crops are harvested, the land is cleared, graded and seeded with cover crop in such a manner as to prevent erosion and present a neat and pleasing appearance.~~
- ~~3. Vegetable crops are permitted provided that its growth will not interfere with the safe and orderly movement of traffic on the highway, and that all plants will be removed promptly after crops are harvested and the land cleared, graded and seeded with cover crop in such a manner as to prevent erosion and present a neat and pleasing appearance.~~
- ~~4. Fruit trees are permitted to maintain existing fruit trees, provided that they are sprayed to control insects and diseases; fertilized and the area is kept generally clear of weeds, etc., but no guarantee of longevity may be expected.~~
- ~~5. Small fruits are permitted, but no guarantee of longevity may be expected.~~
- ~~6. Other uses as may be specifically approved.~~

~~C. Agricultural use agreements will be subject to revocation for cause or as outlined in subsection B of this section, either in whole or for any portion of the prescribed area that may be required for highway purposes, which may include one or more of the following:~~

- ~~1. Storage of road materials when other nearby suitable areas are not available;~~
- ~~2. The planting of trees and shrubs for permanent roadside effects;~~
- ~~3. The correction or improvement of drainage;~~

~~4. The development of wayside, parking or turnout areas; or~~

~~5. For other purposes as may be deemed necessary by the Commissioner of Highways.~~

~~D. Applications for agreements for agricultural uses shall be made to the district administrator's designee. Agreements must be accompanied by a sketch showing the location of the roadway, shoulders, ditches and conditions existing within the right-of-way, together with a description and plat of the area to be covered by it. The text of the application should describe in detail the specific use for which the area is to be utilized.~~

~~Agreements shall be issued only to owners of property adjoining the area to be used. Agreements may be made for terms not to exceed one year, subject to the cancellation terms in subsection C of this section. VDOT shall not be held responsible in any way for the policing of areas subject to agricultural use agreements. No structures are to be erected on areas subject to agricultural use agreements without written approval of the Commissioner of Highways.~~

24VAC30-151-240. Dams.

A. VDOT may permit dams for farm ponds within the right-of-way. The local Soil and Water Conservation District, as defined in § 10.1-500 of the Code of Virginia, will coordinate the approval of all requests to establish farm ponds, including existing or proposed roadway occupation of the dam, with the district administrator's designee. For the purpose of this section, a roadway will be considered to accommodate a farm pond dam if:

1. Any part of the fill for the roadway and the fill for the dam overlap;
2. The area between the two embankments is filled in so that the downstream face of the dam is obscured; or
3. A closed drainage facility from a dam extends under a roadway fill.

B. Permittee responsibility. The permittee acknowledges that VDOT's liability is limited to the maintenance of the roadway and that VDOT has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of the permittee.

C. All other roadway occupation of dams shall be in accordance with the Secondary Street Acceptance Requirements (see [24VAC30-151-76092](#)).

24VAC30-151-260. Railroad crossing permit requests from railroad companies.

A. ~~Operations by the railroad company shall conform to applicable statutes of the Code of Virginia in regard to construction and maintenance of the crossing surface, signing and other warning devices, blocking of crossing, etc.~~ VDOT may permit railway crossings.

B. In the event of future widening of the highway, the permittee shall lengthen the crossing surface, relocate signs and signals, etc., as may be necessary, at no expense to the Commonwealth.

C. ~~Suitable construction bonds~~ surety shall be required when the construction work is to be performed by a contractor for the railroad.

24VAC30-151-270. Railroad crossing permit requests by other companies.

Where a person, firm or chartered company engaged in mining, manufacturing or lumber getting, as defined in § 33.2-252 of the Code of Virginia, applies directly for a permit to construct a tramway or railroad track across the right-of-way, a permit may be issued under the following conditions:

1. ~~Operations by the permittee shall conform to applicable statutes of the Code of Virginia in regard to construction and maintenance of the crossing surface, signing and other warning devices, blocking of crossing, etc.~~

2. In the event of future widening of the highway, the permittee shall lengthen the crossing surface, relocate signs and signals, etc., as may be necessary, at no expense to the Commonwealth.

32. The permittee shall furnish a ~~performance and indemnifying bonds~~ suitable surety of such amounts as VDOT deems necessary and agree to continue the same in force so long as the crossing is in place.

43. The permittee shall notify VDOT prior to the permittee transferring ownership of a crossing so that proper arrangement can be made for the transfer of permitted responsibilities.

24VAC30-151-280. Springs and wells. (Repealed.)

~~In the acquiring of right-of-way, it is often necessary for VDOT to acquire lands where springs, wells and their facilities are located. It is the policy of VDOT to acquire these springs, wells and their facilities along with the land on which they are located. When so acquired, the landowner having previous use of these springs, wells and their facilities may be granted a permit to use these springs, wells and their facilities until the Commissioner of Highways shall, by written notice, advise that the permit is terminated. The issuing of~~

~~the permit shall in no way obligate VDOT to maintain the springs, wells or facilities.~~

24VAC30-151-290. Public telephones. (Repealed.)

~~Public telephone booths may be allowed at rest areas and other locations as provided in 23 CFR 752.5 and allowed at other locations when a definite need is documented. Telephone booths may be allowed when a definite need exists to serve the traveling public, such as:~~

- ~~1. At wayside areas, if well removed from access to off right-of-way public telephone stations.~~
- ~~2. At other isolated areas sufficiently removed from existing off right-of-way public telephone stations as to impair the safety and convenience of traffic, provided that:

 - ~~a. No private land is available or suitable for location of booth;~~
 - ~~b. The location meets all safety requirements as to sight distance, access roads and parking; and~~
 - ~~c. All costs incidental to providing turnout and parking area are borne by the telephone company.~~~~

24VAC30-151-300. General provisions governing utilities.

Utility installations on all highway rights-of-way shall comply with the following provisions:

- ~~1. Overhead or underground utilities may be installed across any right-of-way by a utility under a permit. Requests for accommodations of utility facilities within the right-of-way shall be submitted to and reviewed by the district administrator's designee. These regulations govern all rights-of-way and apply to public and private utilities. These regulations also govern the location, design, methods and financial responsibility for installing, adjusting, accommodating and maintaining utilities.~~
- ~~2. Utility lines shall be located to minimize the need for later adjustments, to accommodate future highway improvements and transportation projects, and to allow servicing of the lines with minimum interference to highway traffic. VDOT retains the right to reject installations that do not address these factors. Utility lines residing within the highway right-of-way facilities shall conform to the type of highway and specific conditions for the highway section involved. Utility ~~installations~~ facilities within the highway right-of-way and utility attachments to highway structures shall be of durable materials, designed for long service life and relatively free from the need for routine servicing and maintenance. All temporary attachments to highway structures must be approved in advance by~~

VDOT.

~~3. The permittee assumes full responsibility for any and all damages caused by improperly installed facilities within the right-of-way under permit (single use or districtwide); therefore, the permittee must make every effort to install its facilities properly so as to preclude the possibility of damage.~~

~~4. The permittee is responsible for the continuing maintenance of its facilities placed within the right-of-way under permit.~~

~~5. Any conflicts with existing utility or other facilities shall be resolved between the permittee and the existing utility owner of the other utility or facility.~~

~~64. Utilities shall not be attached to a bridge or other structure unless the utility owner applicant or permittee can demonstrate that the installation and maintenance methods of the utility will not interfere with VDOT's ability to maintain the bridge or other structure, will not impact the durability and operational characteristics of the bridge or other structure, and except for installation, will not require access to the facility from a limited access highway. The attachment method must be approved by VDOT (see ~~24VAC30-151~~ section 430).~~

~~75. The encasement of underground utility crossings shall be in accordance with ~~24VAC30-151~~ section 370.~~

24VAC30-151-310. Utility installations within limited access highways.

Utility installations on all limited access highways shall comply with the following additional provisions:

1. Requests for all utility installations within limited access right-of-way shall be reviewed and, if appropriate, be approved by the ~~Commissioner of Highways~~ Chief Engineer prior to permit issuance.

2. New utilities will not be permitted to be installed parallel to the roadway longitudinally within the controlled or limited access right-of-way lines of any highway, except that ~~in special cases where~~ other alternative locations are not in the public interest or under resource sharing agreements such installations may be permitted under strictly controlled conditions and ~~then~~ only with approval ~~from~~ of the Commissioner of Highways. ~~However, in each such case the utility owner must show~~ The applicant must satisfy the following conditions, at a minimum:

a. That the installation will not adversely affect the safety, design, construction, operation, maintenance or stability of the highway.

b. That the accommodation will not interfere with or impair the present use or future expansion of the highway.

c. That any alternative location would be contrary to the public interest. This determination would include an evaluation of the direct and indirect environmental and economic effects that would result from the disapproval of the use of such right-of-way for the accommodation of such utility.

d. ~~In no case will parallel installations within limited access right-of-way be permitted that involve~~
No tree removal or severe tree trimming is required for the installation.

3. Overhead and underground utilities may only be installed within limited access right-of-way ~~by a utility company under an agreement that provides for a shared resource arrangement~~agreement subject to VDOT's need for the shared resource.

4. All authorized longitudinal utility installations within limited access right-of-way, ~~excluding communication tower facilities,~~ shall be located in a utility area established along the outer edge of the right-of-way. Special exceptions must be approved by the ~~Commissioner of Highways~~Chief Engineer.

5. Authorized overhead utility installations within limited access right-of-way shall maintain a minimum of 21 feet of vertical clearance.

6. Authorized underground utility installations within limited access right-of-way shall have a minimum of 36 inches of cover.

7. Service connections to adjacent properties shall not be permitted from authorized utility installations within limited access right-of-way.

8. Overhead crossings shall be located on a line that is perpendicular to the highway alignment.

9. A utility access control line will be established between the proposed utility installation, the through lanes, and ramps.

24VAC30-151-330. Overhead utility installations within nonlimited access highways.

A. Overhead utility crossings shall be located on a line that is perpendicular to the highway alignment. Longitudinal installations shall be located on a uniform alignment as near as possible to the right-of-way line to provide a safe environment and space for future highway improvements and other utility installations.

B. Overhead longitudinal utilities may be installed on all nonlimited access highways by a public or

private utility company under a permit, except in scenic areas, as follows:

1. Overhead utilities may be installed within nonlimited access right-of-way ~~by a utility company~~ under permit, including a districtwide permit as allowed under ~~24VAC30-151-30-C-1~~ subdivision B 1 of section 30.

2. All overhead installations, excluding ~~communication tower~~ wireless support structure facilities, shall be located adjacent to the right-of-way line and in accordance with clear zone requirements. Repairs and replacement of similar installations may be performed in existing locations under the existing permit providing the work shall not impede the traveled way. Additional poles, taller poles, or cross-arms require a separate permit.

C. Longitudinal installations of overhead lines within the right-of-way shall be limited to single-pole construction. Joint-use, single-pole construction will be encouraged at locations where more than one utility or type of facility is involved, especially where the right-of-way widths approach the minimum needed for safe operations or maintenance requirements, or where separate installations may require extensive removal or alteration of trees.

D. Consideration will not be given to poles placed on a highway right-of-way of less than 40 feet in width. ~~Longitudinal pole line installation shall be located on the outer 15 feet of the right-of-way greater than 40 feet in width.~~

E. Highway crossings should be grouped at one location whenever practical, and as near as possible to right angles to the center of the road.

F. New overhead installations crossing existing or proposed nonlimited access highways shall provide a minimum of 18 feet of vertical clearance or at a minimum height as established by the ~~National Electric Safety Code (see 24VAC30-151-760)~~ standards and specifications set forth in the terms of the permit, whichever is greater. The overlashing of telecommunications lines onto existing lines or strand is not considered a new overhead installation.

G. Existing overhead utilities that are found to be in horizontal or vertical conflict, or both, with proposed traffic control devices or signage, or both, shall be adjusted, ~~at no cost to VDOT~~ the permittee's expense, to provide an unobstructed view for the traveling public and the appropriate clearance from traffic control devices or signage.

H. The vertical clearance for all new overhead installations parallel to an existing or proposed highway

and within nonlimited access rights-of-way shall be in compliance with standards as specified in the ~~National Electric Safety Code (see 24VAC30-151-760)~~ terms of the permit. The overlashing of telecommunications lines onto existing lines or strand is not considered a new overhead installation.

I. When crossing a median, all poles or other overhead facilities shall be placed to maintain an adequate clear zone in each direction.

J. Longitudinal pole line installation will not be allowed in the median.

24VAC30-151-340. Underground utility installations within nonlimited access highways.

Underground longitudinal utilities may be installed under permit on all nonlimited access highways, except in scenic areas, as follows:

1. Underground utilities may be installed within nonlimited access right-of-way by a public or private utility company under a permit, including a districtwide permit as allowed under ~~24VAC30-151-30-C 4~~subdivision B 1 of section 30.
2. All underground utilities within ~~VDOT~~ rights-of-way will require a minimum of 36 inches of cover, except underground cables that provide cable or telecommunications services shall be at a minimum of 30 inches of cover. The district administrator's designee has the discretion to grant an exception to depth of cover requirements if the permittee encounters obstacles preventing the installation of main line facilities at the minimum depth of cover, as long as installation at the minimum depth of cover is resumed when the installation passes by the obstacle.
3. An underground utility shall not be attached to a ~~bridge or other~~ structure unless the ~~utility owner applicant or permittee~~ can demonstrate that the installation and maintenance methods will not interfere with VDOT's ability to maintain the ~~bridge or other~~ structure, will not impact the durability and operational characteristics of the ~~bridge or other~~ structure, and will not require access from the roadway or interfere with roadway traffic. The attachment method must be approved by VDOT (see ~~24VAC30-151-section 430~~).
4. The proposed method for placing an underground facility requires approval from the district administrator's designee. All underground facilities shall be designed to support the load of the highway and any superimposed loads. All pipelines and encasements shall be installed in accordance with ~~24VAC30-151-sections 360 and 24VAC30-151-370~~.
5. Underground utilities shall not be installed within the median area except, ~~in special cases or~~

under shared resource agreements, or with approval from the Commissioner of Highways.

6. Underground utilities may be installed under sidewalk areas with approval from the district administrator's designee.

24VAC30-151-350. ~~Nonlimited access highways: communication towers~~ Wireless support structures and site installations.

~~Communication tower structures and other types of surface mounted or underground utility facilities may be installed by a utility company under an agreement providing for a shared resource arrangement or the payment of appropriate compensation, or both. The Commissioner of Highways may grant an exception for a nonshared resource arrangement, under strictly controlled conditions. The utility owner must show that any alternative location would be contrary to the public interest. This determination would include an evaluation of the direct and indirect environmental and economic effects that would result from the disapproval of the use of such right-of-way for the accommodation of such utility. Communication~~In accordance with Chapter 15.1 of Title 56 of the Code of Virginia, wireless support structures, communication pedestals, nodes, and amplifiers may be installed in the right-of-way pursuant to permit unless the district administrator's designee reasonably concludes that safety concerns at a specific location require placement of wireless support structures, communication pedestals, nodes, or amplifiers elsewhere in the right-of-way. The placement of communication pedestals, nodes, or amplifiers between the edge of pavement or back of curb and the sidewalk shall not be permitted. All requirements and regulations applicable to permits that do not conflict with Chapter 15.1 of Title 56 of the Code of Virginia must be followed to obtain and maintain a permit for wireless support structures, communication pedestals, nodes and amplifiers.

24VAC30-151-360. Pipelines.

The permittee shall maintain minimum cover for any underground facility as established by the VDOT standards and specifications set forth in the terms of the permit or as otherwise required by applicable law, whichever is greater. Where pavement exists, the permittee shall bore, push, or jack and maintain a minimum cover of 36 inches.

The vertical and horizontal clearance between a pipeline and a structure or other highway facility shall be sufficient to permit maintenance of the pipeline and facility. Longitudinal pipeline installations shall be kept out of the ditch line where practical. When locating the utilities outside of the pavement area is not

practical, such as in high density developments ~~incorporating the principles of new urbanism~~ as described in § 15.2-2223.1 of the Code of Virginia, utilities may be placed under the pavement. When utilities are proposed to be placed within the ditch line or under highway pavement, the permit applicant shall provide ~~the justification for such installations~~ to the district administrator's designee as part of the permit application.

All water, gas, sewer, electrical, communications and any pressurized pipelines carrying hazardous material shall conform to all applicable industry codes, including materials, design and construction requirements. No asbestos cement conduit or pipe shall be used for any installation. The permittee may be required to certify in writing that this restriction has been observed, if requested by VDOT.

Pipelines four inches in diameter or larger and no longer in use shall be cleaned of debris and plugged at open ends with Class A3 concrete. The district administrator's designee may also require such pipes to be filled prior to being plugged.

24VAC30-151-380. Appurtenances.

A. When vents are required they shall be located at the high end of casings less than 150 feet in length and generally at both ends of casings longer than 150 feet. Vent standpipes shall be on or beyond the right-of-way line to prevent interference with maintenance or pedestrian traffic.

B. A permit may be granted to install drains for any underground facility. The permittee shall ensure the achievement of positive drainage.

C. National uniform color codes for identification of utilities shall be used to place permanent markers.

D. ~~Manholes~~Utility access points (manholes and handholes) shall be placed in the shoulders, utility strips, or other suitable locations. When no other alternative is available, consideration will be given to placement of manholes in the pavement surface. Every effort should be made to minimize ~~manhole~~utility access point installations at street intersections and in the normal wheel path of the travel lanes. ~~Manholes~~Utility access points shall be designed and located in such a manner that shall cause the least interference to other utilities and future highway expansion.

E. ~~Manhole~~Utility access point frames and covers, valve boxes, and other castings located within the paved roadway, shoulder, or sidewalk shall be constructed flush with the finished grade. ~~Manhole~~Utility access point frames and covers, valve boxes, and other castings located within sidewalk areas shall be constructed in accordance with the Americans with Disabilities Act (42 USC § 12101 et seq.).

F. The permittee shall install shutoff valves, preferably automatic, in lines at or near the ends of

structures and near unusual hazards, unless other sectionalizing devices within a reasonable distance can isolate hazardous segments.

24VAC30-151-390. In-place and prior-rights permits.

A. Prior to VDOT's acceptance of a secondary street into the VDOT system, the ~~public~~ utility owner shall quitclaim ~~its~~all prior rights within the right-of-way to the Commonwealth in exchange for ~~an in-place permit for in-place utilities on new subdivision streets. The utility may~~allowing the permittee's utility facilities ~~to~~ continue to occupy such street in its existing condition and location. The ~~public utility owner~~ permittee shall be responsible for the utility facilities and resulting damages to persons and property that might result from the presence of the utility. Should VDOT later require the ~~public utility owner~~permittee to alter, change, adjust, or relocate ~~any utility~~the utility facilities subject to the in-place permit, the non-betterment cost will be the responsibility of the Commonwealth and all other costs will be the responsibility of the permittee.

B. In cases where existing utilities are not in conflict with transportation improvements authorized under the auspices of a land use permit, but would be located beneath transportation facility features, a prior rights permit may be issued that allows the existing utilities to remain in place.

C. Utilities without prior rights but located within the right-of-way of new subdivision streets shall obtain an ~~in-place~~in-place permit to occupy that portion of the right-of-way. Should VDOT later require the permittee to alter, change, adjust, or relocate any utility, the cost will be the responsibility of the permittee.

24VAC30-151-400. Utility adjustments in conjunction with a VDOT project.

~~A permit is required for facilities~~Where facilities are directed to be relocated in conjunction with a ~~VDOT transportation~~ project. ~~For specific information, see the Right of Way Utilities Relocation Policies and Procedures Manual (see 24VAC30-151-760),~~ the permittee must obtain a new permit for any facilities relocated within or to right-of-way. Unless otherwise specifically provided by the Code of Virginia or this chapter, all relocation is to be done in a timely manner so as to not interfere with the project and at the permittee's sole expense, and relocation must be done in accordance with VDOT policies and procedures included in the terms of the permit. Utilities may be placed within the ~~highway~~ right-of-way by permit, including adjustments and work performed in connection with utilities agreements. Utilities placed within the right-of-way shall conform to the requirements of this chapter.

24VAC30-151-420. Lighting facilities.

A. A permit is required for any lighting that will be on or overhanging the right-of-way. ~~Lighting on or~~

~~overhanging the right-of-way is classified as roadway lighting or nonroadway lighting. Roadway lighting is lighting intended to improve visibility for users of the roadway. Nonroadway lighting and is lighting intended designed to improve visibility or to enhance safety for pedestrians or adjacent properties illuminate the pavement or adjacent pedestrian or bicycle facilities. Lighting facilities are not considered a utility.~~

B. ~~Design of roadway lighting facilities systems or fixtures shall be based upon the specifications developed by the Illuminating Engineering Society in the manual, American National Standard Practice for Roadway Lighting (see 24VAC30-151-760). The Roadway Lighting Design Guide by the American Association of State Highway and Transportation Officials (AASHTO) (see 24VAC30-151-760) may be used as a supplemental guide in accordance with § 2.2-1111 of the Code of Virginia and the terms of the permit.~~

C. ~~The permittee applicant shall submit to the district administrator's designee two copies of scale drawings in electronic format depicting lighting pole locations, mounting heights, pole and base type (breakaway or nonbreakaway), photometric calculations, type and wattage lumens of luminaires and arm lengths. Roadway lighting Lighting shall be installed in accordance with VDOT's Road and Bridge Specifications (see 24VAC30-151-760) the terms of the permit.~~

D. ~~Nonroadway lighting may be allowed within the right-of-way, provided such lighting does not adversely affect the visibility of roadway users, and lighting supports and support locations do not compromise VDOT clear zone and safety standards VDOT reserves the right to require modification or removal of luminaires if they are determined to be providing excessive light trespass into adjacent properties.~~

24VAC30-151-430. Attachments to bridge structures.

A. Utilities may be located on highway grade separation structures across interstate or other controlled access highways, over crossroads, and across major streams or valleys only in extreme cases, and with approval of the district structure and bridge engineer in accordance with VDOT specifications.

B. ~~Communication and electric power lines~~ Lines carrying electricity shall be insulated, grounded and installed in a conduit or pipe to manholes or poles at either end of the structure, as applicable.

C. If a utility is placed on a structure, the installation shall be located beneath the structure's floor between the girders or beams, and at an elevation above the bottom flange of the beam. The utility shall not be attached to the outside of the exterior beam, parapets or sidewalks.

D. Water and sewer attachments shall follow general controls previously listed for providing encasement and allied mechanical protection. In addition, shut-off valves shall be provided outside the limits of the structure.

E. Utilities attached to structures crossing waterways may require a water quality permit.

F. Natural gas and petroleum mains may not be attached to highway structures.

24VAC30-151-440. ~~Miscellaneous permits. (Repealed.)~~

~~In accordance with the General Rules and Regulations of the Commonwealth Transportation Board (see 24VAC30-151-760), no use of any real property under the ownership, control or jurisdiction of VDOT shall be allowed until written permission is first obtained from VDOT. A permit, which shall constitute such permission, is required for the uses of right-of-way described in this part.~~

24VAC30-151-450. Banners and decorations.

A county, town, ~~or~~ religious or civic organization, or other individual or entity shall obtain a single use permit to hang banners or erect holiday decorations (such as lights) across state highways. Banners and decorations shall not remain in place more than 30 calendar days and shall be a minimum of 21 feet above the center of the road. They shall not detract from, interfere with, or conflict with any existing highway signs or signals.

24VAC30-151-460. Building movements.

A single use permit shall be obtained for ~~all building movements~~ on right-of-way for all buildings over 16 feet wide. All requests for building movements require the approval of the district administrator's designee in the district where the move initiates after the ~~move~~applicant provides the required investigative report and route certification documents. All building movements shall be covered by a performance bond that is commensurate with the type of move requested. ~~Application for a building movement shall be made through the district administrator's designee in the district where the move initiates.~~

24VAC30-151-490. Construction or reconstruction of roads, entrances, bridges, or other drainage structures, or other transportation facilities.

A permit is required for construction or reconstruction of roads, private or commercial entrances, bridges, or other drainage structures, or other transportation facilities. Such activities may be permitted based upon evaluation, an engineering analysis provided by the applicant, and approval of the district

administrator's designee. Approval by the relevant county board of supervisors may also be necessary.

24VAC30-151-500. Crest stage gauges, water level recorders.

Permits may be issued to any governmental ~~state~~ agency to install hydrological study equipment within ~~highway~~ rights-of-way. Maintenance of these facilities is the responsibility of the permittee.

24VAC30-151-520. Filming ~~for movies~~.

A single use permit shall be obtained for any filming activities within the right-of-way that may affect the safety, use or operation of the highway. Additionally, a single use permit shall be obtained for any movie, television or other commercial filming within the ~~highway~~ rights-of-way and shall be coordinated through the Film Office of the Virginia Tourism Corporation.

24VAC30-151-550. Roadside memorials.

A. Section 33.2-216 of the Code of Virginia directs the Commonwealth Transportation Board to establish regulations regarding the authorized location and removal of roadside memorials. Roadside memorials shall not be placed on ~~state~~ right-of-way without first obtaining a permit. ~~At the site of fatal crashes or other fatal incidents, grieving families or friends often wish for a roadside memorial to be placed within the highway right of way. The following rules shall be followed in processing applications to place roadside memorials within the highway right of way~~A roadside memorial permit requires compliance with the following requirements as well as all other applicable permit regulations:

1. Applications for a memorial shall be submitted to the district administrator's designee. The district administrator's designee will review, ~~and if necessary, amend or reject any application~~ applications for compliance with applicable requirements and has the authority to issue or deny a permit or request amendment of the application.
2. If construction or major maintenance work is scheduled in the vicinity of the proposed memorial's location, the district administrator's designee may identify an acceptable location for the memorial beyond the limits of work, or the applicant may agree to postpone installation.
3. ~~If the~~The applicant ~~requests an appeal to~~ may request review of the district administrator's designee's decision regarding amendment or ~~rejection~~denial of an application, ~~this appeal will be forwarded to~~ by the district administrator.
4. Criteria used to review applications shall include, but not be limited to, the following factors:

- a. Potential hazard of the proposed memorial to travelers, the bereaved, VDOT personnel, or others;
- b. The effect on the proposed site's land use or aesthetics; installation or maintenance concerns; and
- c. Circumstances surrounding the accident or incident.

5. Approval of a memorial does not give the applicant, family, or friends of the victim permission to park, stand, or loiter at the memorial site. ~~It is illegal to park along the interstate system, and because of safety reasons and concerns for the public and friends and family of the deceased, parking, stopping, and standing of persons along any highway is not encouraged.~~

B. ~~The following rules will be followed concerning~~requirements and limitations apply to applications for roadside memorial participation permits:

1. Any human fatality that occurs on the state highway system is eligible for a memorial. Deaths of animals or pets are not eligible.
2. The applicant must provide a copy of the accident report or other form of information to the district administrator's designee so that the victim's name, date of fatality, and location of the accident can be verified. This information may be obtained by contacting the local or state police. The district administrator's designee may also require that the applicant supply a copy of the death certificate.
3. Only family members of the victim may apply for a memorial.
4. The applicant will confirm on the application that approval has been obtained from the immediate family of the victim and the adjacent property owner or owners to locate the memorial in the designated location. If any member of the immediate family objects in writing to the memorial, the application will be denied or the memorial will be removed if it has already been installed.
5. If the adjacent property owner objects in writing, the memorial will be relocated and the applicant will be notified.
6. Memorials will remain in place for two years from the date of installation, at which time the permit shall expire. The Commissioner of Highways may, upon receipt of a written request, grant an extension of the permit. An extension may be granted for a period of one year, and requests for further extensions must be submitted for each subsequent year. The applicant or the family of the

victim may request that the memorial be removed less than two years after installation.

7. The applicant shall be responsible for the fabrication of the memorial. VDOT will install, maintain, and remove the memorial, but the cost of these activities shall be paid by the applicant to VDOT.

C. Roadside memorial physical requirements.

1. The memorial shall be designed in accordance with Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and § 46.2-831 of the Code of Virginia and the Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices (see 24VAC30-120) and Vegetation Control Regulations on State Rights-Of-Way (see ~~24VAC30-451-760~~200). The use of symbols, photographs, drawings, logos, advertising, or similar forms of medium is prohibited on or near the memorial.

2. Only one memorial per fatality shall be allowed.

3. VDOT reserves the right to install a group memorial in lieu of individual memorials to commemorate a major incident where multiple deaths have occurred.

4. The memorial shall be located as close as possible to the crash site, but location of the memorial may vary depending on the site and safety conditions.

a. Memorials shall be installed outside of the mowing limits and ditch line and as close to the right-of-way line as reasonably possible.

b. Memorials shall be located in such a manner as to avoid distractions to motorists or pose safety hazards to the traveling public.

c. Memorials shall not be installed in the median of any highway, on a bridge, or within 500 feet of any bridge approach.

d. Memorials shall not be permitted in a construction or maintenance work zone. VDOT reserves the right to temporarily remove or relocate a memorial at any time for highway maintenance or construction operations or activities.

e. If ~~VDOT's~~the right-of-way is insufficient for a memorial to be installed at the crash site, the district administrator's designee ~~will~~may locate a more suitable location ~~as close as possible~~ to the incident vicinity to locate the memorial where sufficient right-of-way exists.

D. Removal. After the two-year term or any extension of the term approved in accordance with this

section, the memorial shall be removed by VDOT personnel. The memorial nameplate will be returned to the applicant or the designated family member, if specified on the application. If the applicant does not wish to retain the nameplate, the nameplate will be reused, recycled, or disposed at VDOT's discretion.

24VAC30-151-560. Mailboxes and newspaper boxes.

Mailboxes and newspaper boxes may be placed within VDOT right-of-way without a permit; however, placement ~~should~~shall not interfere with safety, maintenance and use of the roadway. Lightweight newspaper boxes may be mounted on the side of the support structure. Breakaway structures will be acceptable as a mailbox post. Breakaway structures are defined as a single four-inch by four-inch square or four-inch diameter wooden post or a standard strength, metal pipe post with no greater than a two-inch diameter.

24VAC30-151-570. Miscellaneous signs and devices.

A. In cooperation with local, state and federal organizations, certain public service signs may be placed within the right-of-way without a permit. The district administrator's designee shall determine the appropriate location for the following signs.

1. Forestry. Authorized representatives of the National and State Forest Service may place forest fire warning signs within the right-of-way without a permit. ~~Fire~~A limited number of fire warning signs will be placed near forest reservations or wooded areas; ~~however, only a limited number of the small cardboard or metal signs should be allowed within the right of way within the forest reservations.~~ The Department of Forestry may utilize other types of signs to more forcibly impress the public with the need for protecting forest areas. Sign placement shall be accomplished under an agreement, subject to the following conditions:

- a. No highway sign should carry more than one message, no other signs shall appear on posts bearing highway signs;
- b. No signs shall be erected that would restrict sight distance, or are close to highway warning and directional signs;
- c. Signs regarding forest fires should be placed by fire wardens; and
- d. Signs shall be maintained by the Department of Forestry.

In all cases, the forest warden is to coordinate the desired location of these signs with the district

administrator's designee prior to placement.

2. Garden week. These signs are erected and removed by employees of VDOT. The appropriate committee of the Garden Club of Virginia will designate the gardens and places that are to be officially opened during Garden Week and notify the district administrator's designee accordingly, who will ensure the appropriate placement of these signs.

3. Roadside acknowledgement. These signs acknowledge the name and logo of businesses, organizations, communities, or individuals participating in the landscape of a segment of the right-of-way in accordance with the Comprehensive Roadside Management Program (see 24VAC30-151-760~~121~~). As the landscaping is accomplished under a land use permit, the signs are considered to be covered by that permit.

~~4. Rescue squad. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to the rescue squad headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).~~

~~5. Fire station. These signs are fabricated, erected, and maintained by VDOT. The signs may be used on the approaches to fire station headquarters as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760).~~

~~6. Bird sanctuary. Upon receipt of a request from a town or city, VDOT will fabricate and erect these signs, at the expense of the municipality, at the corporate limits of the town or city under the municipality name sign as shown in the Virginia Supplement to the Manual on Uniform Traffic Control Devices (see 24VAC30-151-760~~315~~). In order for a municipality to be designated as a bird sanctuary, the municipality must pass a resolution to that effect. The municipality shall be responsible for maintenance of bird sanctuary signs.~~

~~75. Historical highway markers. Information regarding the historical highway marker program may be obtained from the Virginia Department of Historic Resources. Applications for historical highway markers shall be obtained from and submitted to the Virginia Department of Historic Resources.~~

B. The district administrator's designee may authorize the placement of the following miscellaneous signs within right-of-way under ~~the auspices of~~ a single use permit:

1. Locality identification or "welcome to" signs. Requests for locality identification or "welcome to" signs to be located within nonlimited access right-of-way. These signs shall not be placed on limited

access right-of-way. Locality identification or "welcome to" signs that interfere with roadway safety, traffic capacity, or maintenance shall not be permitted. A permit application requesting placement of a locality identification or "welcome to" sign within the right-of-way must be accompanied by a formal resolution from the local governing body or a letter from the chief executive officer of the local government. Such signs shall meet all VDOT breakaway requirements (~~see Road Design Manual, 24VAC30-151-760~~)specified in the terms of the permit or be erected outside of the clear zone. No advertising shall be placed on these signs. The local governing body shall be responsible for maintenance of the locality's identification or "welcome to" signs in perpetuity.

2. VDOT may authorize any individual, group, local government, and other entities to place storm drain pollution prevention markers or stenciling on VDOT storm drain inlet structures accessible by pedestrian facilities. A local government, through coordination with the district administrator's designee, may apply for a countywide permit to enable this type of activity ~~on~~ behalf of clubs, citizens groups, and other entities. The permit application must include, at a minimum, a graphic sample or samples of the proposed markers, structure locations and a comprehensive list of streets, if a wide distribution of marker placement is anticipated. Stencil measurements shall not exceed 15" L x 20" W.

3. VDOT may authorize a local government to install "no loitering" signs within the right-of-way. The district administrator's designee shall determine the appropriate location for these signs.

C. The Commissioner of Highways or his designee may authorize the placement of various automated traffic enforcement devices for the Commonwealth or its political subdivisions as may be allowed by law.

24VAC30-151-580. Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation-related elements.

Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation elements such as pedestrian oriented trash cans, or any combination of these, that do not interfere with roadway safety, traffic capacity or maintenance may be authorized under ~~the auspices of~~ a single use permit. These nontransportation related elements shall not be placed on limited access rights-of-way. ~~Requests for the placement of ornamental posts, walls, residential and commercial development identification signs, or other nontransportation related elements, or any combination of these, may be permitted as authorized by the district administrator's designee.~~ Permit applications requesting placement

of ornamental posts, walls, residential and commercial development identification signs, other nontransportation related elements, or any combination of these, within the right-of-way must be accompanied by documentation indicating the issuance of all required approvals and permissions from the local jurisdictional authority. Such ornamental posts, walls, residential and commercial development identification signs, and other nontransportation related elements shall meet all VDOT breakaway requirements (~~see Road Design Manual, 24VAC30-151-760~~)specified in the terms of the permit or be erected outside of the clear zone. No advertising shall be placed on these nontransportation related elements permitted within the right-of-way. The permittee shall be responsible for maintenance of these nontransportation related elements in perpetuity.

~~24VAC30-151-590. Outdoor advertising adjacent to the right-of-way. (Repealed.)~~

~~Permits for outdoor advertising located off the right-of-way are obtained through the roadside management section at any VDOT district office or the Maintenance Division in accordance with Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 of the Code of Virginia. Selective pruning permits for outdoor advertising shall be issued in accordance with § 33.2-1221 of the Code of Virginia.~~

24VAC30-151-600. Pedestrian and bicycle facilities.

The installation of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses and overpasses within right-of-way may be authorized under the auspices of a single use permit. VDOT, in its discretion, shall maintain those facilities that ~~meet the requirements of the Commonwealth Transportation Board's Policy for Integrating Bicycle and Pedestrian Accommodations (see 24VAC30-151-760)~~are open for general public use, built in the right-of-way to VDOT standards, and accepted by VDOT for maintenance. The maintenance of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses and overpasses not meeting these requirements shall be subject to permit requirements, and the permittee shall be responsible for maintenance of these facilities.

The installation of pedestrian or bicycle facilities within limited access right-of-way shall be considered a change in limited access control and requires approval of the Commonwealth Transportation Board prior to permit issuance (see Change of Limited Access Control, ~~24VAC30-151-760~~401). The installation of pedestrian or bicycle facilities parallel to and within the right-of-way of nonlimited access highways crossing limited access highways by way of an existing bridge or underpass shall not be considered a change in limited access but shall require the approval of the ~~Commissioner of Highways~~Chief Engineer prior to issuance of a permit for such activity.

24VAC30-151-620. Roadside management, landscaping.

Placement and maintenance of plant materials by individuals or organizations may be allowed under a single use permit in strict accordance with VDOT Road and Bridge Specifications (see 24VAC30-151-760), VDOT Road and Bridge Standards (see 24VAC30-151-760) specifications as set forth in the terms of the permit, § 33.2-265 of the Code of Virginia, and the Comprehensive Roadside Management Program (see 24VAC30-151-760121). The applicant/permittee shall maintain any altered roadside area in perpetuity for the duration of the permit. All related permit applications shall be accompanied by a corresponding maintenance agreement. If permit conditions, including the maintenance agreement, are violated at any time, VDOT reserves the right to reclaim and may revoke the permit and restore such permitted the roadside area to its original condition or otherwise establish turf in accordance with VDOT Road and Bridge Specifications (see 24VAC30-151-760) standards and specifications. The costs of reclamation and restoration activities shall be paid by the permittee. Tree pruning or removal may be allowed on right-of way for maintenance purposes for utility facilities or as part of a roadside beautification project sponsored by the local government or to daylight an outdoor advertising structure or business in accordance with Vegetation Control Regulations on State Rights-of-Way (see 24VAC30-151-760200). See VDOT's Tree and Brush Trimming Policy (see 24VAC30-151-760) for further information.

All pesticide applicators shall meet the applicable requirements established by the Department of Agricultural and Consumer Services in Rules and Regulations for Enforcement of the Virginia Pesticide Law (2VAC5-670) (see 24VAC30-151-760). Pesticide activities shall comply with all applicable federal and state regulations.

Permits for volunteer mowing or litter pickup shall be issued only under conditions which assure reasonable safety for all participants and other highway users and which will not cause unreasonable interference with normal traffic flow. All volunteer mowing operations on highway segments with speed limits greater than 45 mph shall be performed only by licensed, bonded and insured persons. A copy of the permit, and all safety requirements included in the permit, must be maintained at the mowing site. No lane closures will be allowed for mowing, and the mower operator and mowing equipment shall not encroach into the travel way while in operation. Participants of a One Time Litter Pickup shall be adults or shall be supervised by an adult. The ratio shall be one adult per no more than six children. No participants aged 10 or under will be allowed to participate. All participants must view an Adopt-a-Highway safety video prior to participating.

24VAC30-151-630. Transit and school bus shelters.

School bus shelters, public transit shelters or share ride stations may be authorized under the auspices of a single use permit. Approval of ~~such structures~~the shelter or station design must be obtained in ~~accordance with~~from the Virginia Department of General Services ~~requirements set forth in the~~ Construction and Professional Services Manual (see 24VAC30-151-760)prior to the issuance of a permit. Shelters shall be located in accordance with all clear zone requirements ~~described in Appendix A-2 of~~ VDOT's Road Design Manual (see 24VAC30-151-760)specified in the terms of the permit.

24VAC30-151-670. Prohibited use of right-of-way.

~~No~~The following uses of the right-of-way are prohibited and no permit shall be issued for the following uses of the right-of-way:

1. Signs. Signs not otherwise allowed in this chapter or by law, including temporary signs, banners, inflatable and air-blown signs and decorations, shall not be placed, located, or displayed on the ~~highway~~ right-of-way or overhang the right-of-way.
2. Vendors on right-of-way. ~~Permits will not be issued to vendors for~~Vendor activities and the operation of business within state~~the~~ rights-of-way, except that a permit may be issued for the following activities:
 - a. As may be allowed for waysides and rest areas under the Rules and Regulations for the Administration of Waysides and Rest Areas (see 24VAC30-50-10 and 24VAC30-151-760) and the Rules and Regulations for the Administration of Parking Lots and Environs (24VAC30-100-10).
 - b. ~~Vendors~~Commercial vendors of newspapers and written materials ~~enjoy constitutional protection under the First Amendment to~~may place or operate their services within rights-of-way, provided they neither impede traffic nor impact the safety of the traveling public. Newspaper vending machine size, placement, and location shall be as directed by the district administrator's designee ~~for that area.~~
 - c. ~~To localities to~~Localities may administer mobile food vending on nonlimited access highways, where the vending operations are regulated by local ordinances, operated consistent with such ordinances, and in accordance with the Commonwealth Transportation Board's regulations and policies.

d. Bike share or other micromobility system operators for placement of stations.

e. Electric vehicle charging stations as allowed by law.

3. Dwellings. No private dwellings, garages, or similar structures shall be placed or constructed within the right-of-way, except support buildings as may be allowed under ~~24VAC30-151-220 and 24VAC30-151-230~~section 350 in connection with wireless communication facilities.

24VAC30-151-690. Permitted discharge to VDOT right-of-way.

A. Permits to discharge to ~~VDOT~~the right-of-way may be issued upon written approval of the local public health department or the Virginia Department of Environmental Quality, or both, and this written approval shall be made part of the permit application. Discharges made to ~~VDOT~~the right-of-way pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) Permit shall demonstrate prior to discharge that no feasible alternative discharge point exists. If discharge is made to ~~VDOT~~the right-of-way, the permittee shall notify the district administrator's designee of any instances where the regulated discharge limits are exceeded and take immediate corrective action to ensure future excursions are prevented, and any damage to ~~VDOT property~~the right-of-way is remediated. Any discharges made pursuant to the ~~General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (see 24VAC30-151-760) Groundwater Remediation of Contaminated Sites, Dewatering Activities of Contaminated Sites, and Hydrostatic Tests (see 9VAC25-120)~~ shall be prohibited from containing any water exhibiting visible oil sheen.

B. Any damages to ~~VDOT property~~the right-of-way, regardless of authorization implied by any non-VDOT issued permit, shall be remedied or repaired immediately by the permittee.

24VAC30-151-700. General provisions for fees, surety, and other compensation.

Except as otherwise provided in this part, the applicant shall pay an application fee to cover the cost of permit processing, pay additive fees to offset the cost of plan review and inspection, and provide surety to guarantee the satisfactory performance of the work or use under permit. For locally administered VDOT projects, the permit fees are waived and in lieu of a surety, the locality may (i) provide a letter that commits to using the surety in place or (ii) have the contractor execute a dual obligation rider that adds VDOT as an ~~additional~~ obligee to the surety bond provided to the locality, with either of these options guaranteeing the work performed within state maintained right-of-way under the terms of the land use permit for that

purpose. A copy of the original surety and letter or rider shall be attached to the land use permit. Except as provided in ~~24VAC30-151-section~~ 740, utilities within the right-of-way shall pay an annual accommodation fee as described in ~~24VAC30-151-section~~ 730. In the event of extenuating circumstances, the Commissioner of Highways may waive all or a portion of any of the fees or surety.

24VAC30-151-710. Fees.

A. Single use permit. A nonrefundable application fee shall be charged to offset the cost of reviewing and processing the permit application and inspecting the project work, in accordance with the requirements in this subsection:

1. The application fee for a single permit is \$100. Public rights of way use fees may be charged in lieu of permit fees in certain situations in accordance with law.

2. Additive costs shall be applied as indicated in this subdivision. The district administrator's designee will determine the total permit fees using the following schedule:

Activity	Fee
Private Entrances	none
Commercial Entrance	\$150 for first entrance \$50 for each additional entrance
Street Connection	\$150 for first connection \$50 for each additional connection
Temporary Logging Entrance	\$10 for each entrance
Temporary Construction Entrance	\$10 for each entrance
Turn Lane	\$10 per 100 linear feet
Crossover	\$500 per crossover
Traffic Signal	\$1,000 per signal installation
Reconstruction of Roadway	\$10 per 100 linear feet
Curb and Gutter	\$10 per 100 linear feet
Sidewalk	\$10 per 100 linear feet
Tree Trimming (for outdoor advertising)	in accordance with § 33.2-1221 of the Code of Virginia
Tree Trimming (all other activities)	\$10 per acre or 100 feet of frontage
Landscaping	\$10 per acre or 100 feet of frontage
Storm Sewer	\$10 per 100 linear feet
Box Culvert or Bridge	\$5 per linear foot of attachment

Drop Inlet	\$10 per inlet
Paved Ditch	\$10 per 100 linear feet
Under Drain or Cross Drain	\$10 per crossing
Above-ground Structure (including poles, pedestals, fire hydrants, towers, etc.)	\$10 per structure
Pole Attachment	\$10 per structure
Span Guy	\$10 per crossing
Additive Guy and Anchor	\$10 per guy and anchor
Underground Utility - Parallel	\$10 per 100 linear feet
Overhead or Underground Crossing	\$10 per crossing
Excavation Charge (including Test Bores and Emergency Opening)	\$10 per opening
Two Month Commuter Lot Mobile Food Vending (available in Planning District 8 only) (weekdays and weekends)	\$150
Single Weekend Commuter Lot Mobile Food Vending (available in Planning District 8 only) (per weekend)	\$10

3. ~~Time~~Permit term extensions for active permits shall incur a monetary charge ~~equal to one-half the application fee charged to the initial permit of \$50~~. Expired permits may be reinstated; however, fees for reinstatement of expired permits shall ~~equal the application fee~~ be \$100. Notwithstanding ~~24VAC30-151-section 80~~, commuter lot mobile food vending permits may not be extended or reinstated.

4. If a permit is cancelled prior to the beginning of the permitted activity, the application fee and ~~one-half~~ of the additive fee will be retained as compensation for costs incurred by VDOT during plan review.

5. The district administrator's designee, in accordance with section 70, may establish an account to track plan review and inspection costs and may bill the permittee not more often than every 30 calendar days. If an account is established for these costs, the permittee shall be responsible for the nonrefundable application fee and the billed costs. When actual costs are billed, the district administrator's designee shall waive the additive fees in subdivision 2 of this subsection.

B. Districtwide permits. Districtwide permits, as defined in ~~24VAC30-151-section 30~~, are valid for a period of two years. The biennial fee for a districtwide permit for utilities and logging operations is \$750 per district. The biennial fee for a districtwide permit for surveying is \$200 per district. The central office permit

manager may exercise discretion in combining requests for multijurisdictional districtwide permits and to authorize unlimited time extensions at the full cost of the permit fee for each two-year term.

~~C. Miscellaneous permit fees. To connect the facility to the transmission grid pipeline, the operator of a nonutility renewable energy facility that produces not more than two megawatts of electricity from a renewable energy source, not more than 5,000 mmBtus/hour of steam from a renewable energy source, or landfill gas from a solid waste management facility, shall remit to VDOT a one-time permit fee of \$1,500 per mile as full compensation for the use of the right-of-way in accordance with § 56-617 of the Code of Virginia.~~

D. No-fee permits. The following permits shall be issued at no cost to the applicant:

1. In-place permits as defined in ~~24VAC30-151-sections 30 and 24VAC30-151-390.~~
2. Prior-rights permits as defined in ~~24VAC30-151-sections 30 and 24VAC30-151-390.~~
3. As-built permits as defined in ~~24VAC30-151-section 30.~~
4. ~~Springs and wells as defined in 24VAC30-151-280.~~
5. Crest stage gauges and water level recorders as defined in ~~24VAC30-151-section 500.~~
- 6~~5~~. ~~Filming for movies as defined in 24VAC30-151-section 520.~~
- 7~~6~~. ~~Roadside memorials as defined in 24VAC30-151-section 550.~~
- 8~~7~~. ~~No loitering signs as defined in 24VAC30-151-section 570.~~
8. Litter pickup and volunteer mowing as defined in section 620.

24VAC30-151-720. Surety.

A. Performance surety. The ~~permitted~~applicant shall provide surety to guarantee the satisfactory performance of the work or use for which a permit is requested. Surety shall be based on the estimated cost of work to be performed within the right-of-way or as otherwise stated herein. Surety may be in the form of a check, cash, irrevocable letter of credit from a financial or banking institution, insurance performance bond, or any other VDOT-approved method. An applicant for a districtwide permit for utilities shall provide a continuous surety in the amount of \$10,000 per county. An applicant for a districtwide permit for logging entrances shall provide a continuous surety in the amount of \$10,000 per district. There is no surety requirement for districtwide permits for surveying. Under no circumstances shall VDOT or any agency of the Commonwealth be named the escrow agent, nor shall funds deposited with VDOT as surety

be subject to the payment of interest. The surety will be refunded or released upon completion of the work and inspection by VDOT ~~subject to the provisions of § 2.2-1151.1 of the Code of Virginia in accordance with the law.~~ VDOT shall be named as an obligee on the bond or a payee for a check, cash, or revocable letter of credit. If a permit is cancelled prior to the beginning of work, the surety shall be refunded or released.

Should the permittee fail to complete the work to the satisfaction of the district administrator's designee, then all or whatever portion of the surety that is required to complete work covered by the permit or to restore the right-of-way to its original condition shall be retained by VDOT.

~~B. Continuous surety~~Structure bond. Permittees installing, operating and maintaining facilities within the highway right-of-way shall secure and maintain a continuous bond. Governmental customers may use a resolution in lieu of a continuous bond. The continuous surety shall be in an amount sufficient to restore the right-of-way in the event of damage or failure. The surety shall remain in full force as long as the ~~work~~facility covered by the permit remains within the right-of-way. A private or commercial entrance does not require a continuous surety. Any other installation may require a continuous surety as determined by the district administrator's designee. ~~An applicant for a districtwide permit for utilities shall provide a continuous surety in the amount of \$10,000 per county. An applicant for a districtwide permit for logging entrances shall provide a continuous surety in the amount of \$10,000 per district. There is no surety requirement for districtwide permits for surveying.~~

24VAC30-151-730. Accommodation fees.

The Commissioner of Highways or a designee shall determine the annual compensation for the use of the right-of-way by a utility, except as provided in ~~24VAC30-151-section~~ 740. The rates shall be established on the value of the right-of-way being used to accommodate the utility facility. The rates for wireless facility installations shall be established on the following basis:

- ~~1. Limited Access Crossings — \$50 per crossing.~~
- ~~2. Limited Access Longitudinal Installation — \$250 per mile annual use payment.~~
- ~~3. Wireless Communication Facility Sites (limited and nonlimited access):~~
 - ~~a. \$24,000 annual use payment for a wireless support structure permitted prior to July 1, 2018, until the permit expires or is terminated~~Small cell attachments to VDOT-owned towers and poles and placement of associated equipment shall be in accordance with § 56-484.31 of the Code of Virginia;

~~b2. \$14,000 annual use payment for non-small cell colocation on a wireless support structure. This payment does not include equipment mounted to an existing wooden utility pole.~~ Wireless facility attachments and emplacements at VDOT-owned towers shall be negotiated in the same manner as resource sharing as set out in section 740; and

~~e3. A wireless support structure installed under a land use permit issued on or after July 1, 2018, shall have an annual use payment based upon the following, which shall be adjusted every five years.~~ set in accordance with § 56-484.32 of the Code of Virginia:

~~(1) \$1,000 for any wireless support structure at or below 50 feet in height;~~

~~(2) \$3,000 for any wireless support structure above 50 feet and at or below 120 feet in height;~~

~~(3) \$5,000 for any wireless support structure above 120 feet in height; and~~

~~(4) \$1.00 per square foot for any other equipment, shelter, or associated facilities constructed on the ground.~~

24VAC30-151-740. Exceptions and provisions to the payment of fees and compensation.

A. Pursuant to §§ 56-462 and 56-468.1 of the Code of Virginia, a certificated provider of telecommunication service shall collect and remit to VDOT a Public Right-of-Way Use Fee as full compensation for the use of the right-of-way by those utilities.

B. Pursuant to §§ 15.2-2108.1:1 and 56-468.1 of the Code of Virginia, a cable television operator subject to the public right-of-way use fee shall not be charged an annual use payment for the use of ~~public~~ the right-of-way.

C. Pursuant to § 56-468.1 of the Code of Virginia, certified providers of telecommunications service shall not be charged ~~land use permit application and additive fees or an annual payment under a resource sharing agreement for the use of public~~ the right-of-way.

D. Municipal or authority owned sewer and water facilities and renewable energy generation transmission facilities shall not be charged an accommodation fee pursuant to ~~24VAC30-151-section~~ 730 of this chapter for the use of public right-of-way.

E. At ~~VDOT's~~ the discretion of the Commisioner of Highways, under the provisions of resource sharing as ~~defined~~ described in ~~24VAC30-151-section~~ 30, compensation for the use of the limited access right-of-way may be negotiated and agreed upon through ~~one~~ any of the following methods:

1. The mutually agreeable exchange of goods, facilities, or services only;
2. ~~Cash~~ Monetary compensation only; or
3. A combination of both.

~~VDOT~~ The Commissioner of Highways will ensure that the goods or services provided in any mutually agreeable exchange are equal to the monetary compensation amount established for the use and occupancy of the right-of-way.

F. VDOT may enter into wireless support structure agreements to permit the construction of wireless support structures or wireless facilities' occupancy of the right-of-way, consistent with applicable law.

~~24VAC30-151-760. Listing of documents (publications) incorporated by reference. (Repealed.)~~

~~Requests for information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from VDOT may be obtained from the department's division and representative indicated; however, department documents may be available over the Internet at www.VirginiaDOT.org. Documents with a Virginia Administrative Code (VAC) number may be accessed from the Internet at: <http://leg1.state.va.us/000/srr.htm>.~~

~~1. Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~2. Access Management Regulations: Principal Arterials (24VAC30-72)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~3. Change of Limited Access Control (24VAC30-401)~~

~~State Right of Way Director (VDOT)~~

~~1401 E. Broad St.~~

Richmond, VA 23219

~~4. Comprehensive Roadside Management Program (24VAC30-121)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

Richmond, VA 23219

~~5. Construction and Professional Services Manual~~

~~Department of General Services~~

~~Division of Engineering and Buildings~~

~~Bureau of Capital Outlay Management (BCOM)~~

~~1100 Bank Street, 6th Floor~~

Richmond, VA 23219

~~6. Erosion and Sediment Control Regulations (4VAC50-30)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

Richmond, VA 23219

~~7. General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-20)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

Richmond, VA 23219

~~8. General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (9VAC25-120)~~

~~Regulatory Coordinator~~

~~State Water Control Board~~

~~P. O. Box 10009~~

~~Richmond, VA 23240~~

~~9. Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) (effective December 22, 2003, revised November 2004)~~

~~Federal Highway Administration~~

~~Superintendent of Documents~~

~~U.S. Government Printing Office~~

~~P.O. Box 371954~~

~~Pittsburgh, PA 15250-7954~~

~~10. National Electric Safety Code (2007 edition)~~

~~Institute of Electrical and Electronics Engineers, Inc.~~

~~10662 Los Vaqueros Circle~~

~~P.O. Box 3014~~

~~Los Alamitos, CA 90720-1264~~

~~11. Policy for Integrating Bicycle and Pedestrian Accommodations (effective 2004)~~

~~Transportation and Mobility Planning Division (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~12. Right of Way Utilities Relocation Policies and Procedures Manual (effective November 2003)~~

~~State Right of Way Director (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~13. Road and Bridge Specifications 2007 (revised 2008)~~

~~Scheduling and Contract Division (VDOT)~~

~~State Contract Engineer~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~14. Road and Bridge Standards (effective 2009)~~

~~Location and Design Engineer (VDOT)~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~15. Road Design Manual (effective 2005, revised 2009)~~

~~Location and Design Engineer (VDOT)~~

~~1401 E. Broad Street~~

~~Richmond, VA 23219~~

~~16. Roadway Lighting, American National Standard Practice for Roadway Lighting (effective 2000, reaffirmed 2005)~~

~~The Standard Practice Subcommittee of the IESNA Roadway Lighting Committee~~

~~The Illuminating Engineering Society of North America~~

~~120 Wall Street~~

~~New York, NY 10005~~

~~17. Roadway Lighting Design Guide (effective 2005)~~

~~American Association of State Highway and Transportation Officials (AASHTO)~~

~~444 North Capitol St. N.W., Suite 225~~

~~Washington, D.C. 20001~~

~~18. Rules and Regulations Controlling Outdoor Advertising and Directional and Other Signs and Notices (24VAC30-120)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~19. Rules and Regulations for the Administration of Waysides and Rest Areas (24VAC30-50)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~20. Rules and Regulations for Enforcement of the Virginia Pesticide Law (2VAC20-20)~~

~~Virginia Department of Agricultural and Consumer Services~~

~~Office of Pesticide Services~~

~~102 Governor Street, 1st Floor~~

~~Richmond, VA 23219~~

~~21. Rules for Enforcement of the Underground Utility Damage Prevention Act (20VAC5-309)~~

~~State Corporation Commission~~

~~Department of Energy Regulation~~

~~P. O. Box 1197~~

~~Richmond, VA 23218~~

~~22. Secondary Street Acceptance Requirements (24VAC30-92)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~23. Vegetation Control Regulations on State Rights of Way (24VAC30-200)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

~~Richmond, VA 23219~~

~~24. VDOT Tree and Brush Trimming Policy (effective 2004)~~

~~Maintenance Division Administrator (VDOT)~~

~~1401 E. Broad St.~~

Richmond, VA 23219

~~25. Virginia Erosion and Sediment Control Handbook, 3rd edition (effective 1992), a Technical Guide to The Virginia Erosion and Sediment Control Law and Regulations (4VAC50-30)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

Richmond, VA 23219

~~26. Virginia Stormwater Management Handbook, 1st edition, Volumes 1 and 2, (effective 1999), a Technical Guide to the Virginia Stormwater Management Program Permit Regulations (4VAC50-60)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

Richmond, VA 23219

~~27. Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60)~~

~~Department of Conservation and Recreation~~

~~Division of Soil and Water Conservation~~

~~203 Governor Street, Suite 206~~

Richmond, VA 23219

~~28. Virginia Supplement to the Manual on Uniform Traffic Control Devices (24VAC30-310, includes the Virginia Work Area Protection Manual)~~

~~Traffic Engineering Division (VDOT)~~

~~1401 E. Broad St.~~

Richmond, VA 23219

FORMS (24VAC30-151)

[Land Use Permit LUP-A, Land Use Permit Application \(rev. 9/2014\)](#)

[Land Use Permit LUP-AUA, Agricultural Use Agreement \(rev. 8/2014\)](#)

[Land Use Permit LUP-BMA, Land Use Permit Application—Building Movement \(rev. 8/2014\)](#)

[Land Use Permit LUP-BMI, Building Movement—Investigator's Report \(rev. 8/2014\)](#)

[Land Use Permit LUP-BMR, Building Movement—Route Certification \(rev. 8/2014\)](#)

[Land Use Permit LUP-BMQ, Building Movement—Prequalification Questionnaire \(rev. 8/2014\)](#)

[Land Use Permit LUP-BMV, Building Movement—VDOT Recommendation \(rev. 8/2014\)](#)

[Land Use Permit LUP-CCV, Chemical Control of Vegetation \(rev. 7/2015\)](#)

[Land Use Permit LUP-CS, Cash Surety Affidavit \(rev. 8/2014\)](#)

[Land Use Permit LUP-CSB, Corporate Surety Bond \(rev. 8/2014\)](#)

[Land Use Permit LUP-CUA, Commercial Use Agreement \(rev. 8/2014\)](#)

[Land Use Permit LUP-ESCCG, Erosion & Sediment Control Contractor Certification \(rev. 8/2014\)](#)

[Land Use Permit LUP-IPP, Land Use Permit Application—In Place Utility, New Street Acceptance \(rev. 8/2014\)](#)

[Land Use Permit LUP-LC, Bank Irrevocable Letter of Credit \(rev. 8/2014\)](#)

[Land Use Permit LUP-MFV, Local Program for the Temporary Occupation of Right of Way by Mobile Food Vendors, \(eff. 9/2015\)](#)

[Land Use Permit LUP-OC, Open-Cut Pavement Restoration Requirements \(rev. 8/2014\)](#)

[Land Use Permit LUP-PA, Permit Agreement for Occupation of Right of Way \(rev. 8/2014\)](#)

[Land Use Permit LUP-PRU, Land Use Permit Application—Prior Rights Utility \(rev. 8/2014\)](#)

[Land Use Permit LUP-SB, Surety Bond \(rev. 8/2014\)](#)

[Land Use Permit LUP-SEA, Special Events Approvals \(rev. 8/2014\)](#)

[Land Use Permit LUP-SEI, Special Event Information \(rev. 8/2014\)](#)

[Land Use Permit LUP-SPG, Special Provisions—General \(rev. 8/2014\)](#)

[Land Use Permit LUP-WZTCG, Work Zone Traffic Control Certification \(rev. 8/2014\)](#)

[Land Use Permit Resolution \(rev. 8/2014\)](#)

[Land Use Permit - Application, LUP-A \(rev. 5/2023\)](#)

[Land Use Permit - Building Movement, LUP-BM \(rev. 8/2016\)](#)

[Land Use Permit - Bicycle Race Events, LUP-BR \(rev. 8/2016\)](#)

[Land Use Permit - Chemical Control, Vegetation, LUP-CCV \(rev. 7/2015\)](#)

[Land Use Permit - Road Construction; Commercial Entrance Installation, LUP-CEI \(rev. 5/2021\)](#)

[Land Use Permit - Single Use Permit; Mobile Food Vending in Commuter Lots, LUP-CFV \(NOVA District - Planning District Eight Only\) \(rev. 9/2018\)](#)

[Land Use Permit - Regional Permit; Cultural Resource Investigation, LUP-CRI \(rev. 8/2016\)](#)

[Land Use Permit - Countywide Permit; Overhead Fiber Co-Location, LUP-CWOFC \(rev. 10/2018\)](#)

[Land Use Permit - Districtwide Permit; Wireless Small Cell Facility, LUP-DWSCF \(rev. 5/2023\)](#)

[Land Use Permit - Districtwide Permit; Surveying Operations, LUP-DWSV \(rev. 5/2023\)](#)

[Land Use Permit - Districtwide Permit; Temporary Logging Entrances, LUP-DWTLE \(rev. 5/2023\)](#)

[Land Use Permit - Districtwide Permit; Utility Service Connections Installation, LUP-DWUSC \(rev. 8/2016\)](#)

[Land Use Permit - Permit for Emergency Vehicle Traffic Control Signal, LUP-EVTCS \(rev. 2/2018\)](#)

[Land Use Permit - Golf Cart and Utility Vehicle Accomodation, LUP-GC \(rev. 8/2016\)](#)

[Land Use Permit - Application, In-Place Utility \(New Street Acceptance\), LUP-IPP \(rev. 8/2014\)](#)

[Land Use Permit - Private Irrigation System Installation, LUP-IR \(rev. 8/2016\)](#)

[Land Use Permit - Landscape Installation and Maintenance, LUP-LS \(rev. 8/2016\)](#)

[Land Use Permit - Lighting Installation, LUP-LT \(rev. 8/2016\)](#)

[Land Use Permit - Mobile Food Vending, LUP-MFV \(rev. 8/2016\)](#)

[Land Use Permit - Outdoor Advertising Structure Vegetation Control, LUP-OAVC \(rev. 8/2016\)](#)

[Land Use Permit - Permit Agreement for Occupation of Right-Of-Way, LUP-PA \(rev. 8/2014\)](#)

[Land Use Permit - Private Entrance Installation, LUP-PE \(rev. 4/2017\)](#)

[Land Use Permit - Photo-Red Camera System Installation, LUP-PRC \(rev. 8/2016\)](#)

[Land Use Permit - Prior Rights Utility, LUP-PRU \(rev. 8/2014\)](#)

[Land Use Permit - Permit for Sign Installation for the Prohibition of Specific Mobility Devices, LUP-PSMD \(rev. 2/2018\)](#)

[Land Use Permit - Private Utility Service Crossing, LUP-PU \(rev. 7/2018\)](#)

[Land Use Permit - Roadside Memorial Sign Installation, LUP-RM \(rev. 5/2023\)](#)

[Land Use Permit - Work Zone Traffic Control for Utility Work Located Off Right-Of-Way, LUP-RWZU \(rev. 4/2017\)](#)

[Land Use Permit - Storm Drain Stenciling, LUP-SDS \(eff. 2/2018\)](#)

[Land Use Permit - Special Events, LUP-SE \(rev. 8/2016\)](#)

[Land Use Permit - Special Events Approval Sheet, LUP-SEA \(rev. 4/2019\)](#)

[Land Use Permit - Special Events Information, LUP-SEI \(rev. 8/2014\)](#)

[Land Use Permit - Single Use Wireless Small Cell Facility, LUP-SUSCF \(rev. 8/2020\)](#)

[Land Use Permit - Single Use Permit Surveying Operations, LUP-SUSO \(eff. 4/2017\)](#)

[Land Use Permit - Single Use Temporary Logging Entrance, LUP-SUTLE \(rev. 3/2019\)](#)

[Land Use Permit - Single Use Wireless Facility Co-Location on an Existing Wireless Support Structure, LUP-SUWFC \(rev. 6/2019\)](#)

[Land Use Permit - Single Use Permit; Wireless Support Structure, LUP-SUWSS \(rev. 6/2019\)](#)

[Land Use Permit - Soil and Water Conservation District Sign Installation, LUP-SWCD \(eff 6/2016\)](#)

[Land Use Permit - Utility Installations, LUP-UT \(rev. 4/2017\)](#)

[Land Use Permit - Regional Permit; Biennial Utility Tree Trimming, LUP-UTT \(rev. 8/2016\)](#)

[Land Use Permit - Vegetation Control; Single Business, LUP-VCSB \(rev. 8/2016\)](#)

[Land Use Permit - Volunteer Mowing Activities, LUP-VM \(rev. 8/2016\)](#)

[Land Use Permit - Wayfinding Sign Program, LUP-WSP \(rev. 6/2017\)](#)

[Request for Taxpayer Identification Number and Certification, W9-COV \(rev. 3/2022\)](#)

[VDOT Background Check form, ITD-35E \(rev. 4/2012\)](#)

[VDOT Information Security Agreement. ITD-36E \(rev. 8/2011\)](#)

Project 7621 - NOIRA**Department of Transportation****Proposed**

Chapter 200

Vegetation Control Regulations on State Rights of Way

24VAC30-200-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in § 33.2-200 of the Code of Virginia.

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

~~"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.~~

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

~~"Federal aid primary highway" means any highway as defined in § 33.2-1200 of the Code of Virginia.~~

"Inspector" means any Department employee ~~designated by the Commissioner of Highways~~ or local government official, authorized to review and approve or deny the permit application and landscape plan, inspect the work performed under authority of this chapter, and make a final approval concerning the work performed.

"Interstate system" means any highway as defined in § 33.2-100 of the Code of Virginia.

"Land Use Permit Regulations" means the regulations (24VAC30-151) promulgated by the ~~board~~Board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.2-400 of the Code of Virginia.

"Local beautification project" means any project ~~in a locality that includes installation of plant materials, using public or other funds, in any public right of way within a city or town, or on a highway or street in a county with the county manager form of government~~ as defined in § 33.2-1221.

"Local government official" means an employee of a local government delegated authority by the city or town council or county board of supervisors where the public right-of-way is within the jurisdictional limits of a city or town on a highway or street not within the jurisdiction of the Commissioner of Highways under § 33.2-1202 of the Code of Virginia, or on a highway or street in a county with the county manager form of government.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable using the natural method under the standards and guidelines ~~listed in 24VAC30-200-40 published by the American National Standards Institute, the American Association of Nurserymen, and the International Society of Arboriculture~~ specified in the terms of the permit.

"Specifications" means ~~the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 2002).~~

~~"Unightly" means vegetation to be selectively removed at VDOT's or the local government official's discretion.~~ "Undesirable" means trees that are invasive, trees with defects, or trees that pose a significant safety risk.

24VAC30-200-20. General provisions.

A. Permits will be issued by the ~~department~~ Department to control vegetation in front of a sign/structure that is not exempt from the provisions of § 33.2-1204 of the Code of Virginia or business that is visible from any highway as defined in § 33.2-1200 of the Code of Virginia and regulated by the territorial limitations as defined in § 33.2-1202 of the Code of Virginia provided the vegetation control work meets the criteria set forth in § 33.2-1221 and this chapter. An application may be filed with the ~~Commissioner of Highways Department~~ Department by ~~an~~ the owner's agent, including but not limited to companies that trim trees. In all other areas the local government official shall issue the permits.

B. All cutting to make an outdoor advertising structure or business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. ~~All cutting to make a business~~

~~more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches.~~ All stumps shall be treated with a cut-stump pesticide applied by a licensed pesticide applicator with a license issued by the Virginia Department of Agriculture and Consumer Services in Category 6, as defined in 2 VAC 5-685-70. All pesticides shall be approved by the ~~department~~Department or local government official prior to use. Selective thinning in accordance with ~~specifications~~the terms of the permit or removal of ~~unsightly~~undesirable vegetation will be allowed on an individual basis to enhance the health and growth of the best trees or to eliminate roadway hazards if recommended by the certified arborist supervising the work and agreed to by the ~~department~~Department or local government official. Trees that are diseased, damaged by insects, ~~unsightly, or that pose a safety hazard~~or undesirable may be removed when recommended by the certified arborist supervising the work and approved by the ~~department~~Department or local government official. When tree removal is recommended by the certified arborist and approved by this permit, the permittee shall provide a list of suitable trees and shrubs and a landscape plan to replace vegetation removed to the inspector or local government official for review and approval prior to issuance of the permit. The certified arborist and the ~~department~~Department or local government official shall agree on size and species of replacement vegetation. The permittee shall plant, at his expense, all replacement vegetation at the locations shown on the landscape plan in accordance with the ~~specifications~~terms of the permit. The establishment period for replacement vegetation shall be in accordance with ~~§ 605.05 of the specifications~~the terms of the permit. No pruning of vegetation to make an outdoor advertising sign or business more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. ~~No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter.~~ No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree unless recommended by the certified arborist and approved by the ~~department~~Department or local government official. All trees and brush removed shall be cut at ground level. Dogwood or other ~~small~~native flowering trees on the site shall not be removed, unless undesirable. The use of climbing irons or spurs is positively forbidden in any tree.

C. ~~When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside. A picture frame effect shall be achieved by leaving vegetation in place that will cover the sign structure supports below the face as seen from the main traveled way.~~

~~D.~~ A permit must be obtained from the ~~department~~Department or local government official prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at his expense, including permit and inspection fees.

~~E.D.~~ A violation of this chapter shall, in addition to penalties provided in § 33.2-1229 of the Code of Virginia, result in a permittee or its agent or both losing its vegetation control permit privilege for five years. Additionally, the bond amount used to secure the permit will be used for any reparations to the site. Inadvertent violations of this permit will require replacement on a four-to-one basis with other suitable small trees approved by the ~~department~~Department or local government official to enhance the roadside beauty. The ~~department~~Department or local government official shall have full authority to determine specie and size of all replacement vegetation if inadvertent cutting occurs.

24VAC30-200-30. Special provisions.

A. The permittee shall attach two ~~each 8" x 10" color glossy~~ photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting, or both, will be inspected by the ~~department~~Department or local government official and approval or denial given.

A permit may be denied any applicant, and all permits issued by the ~~board~~Department or local government official may be revoked whenever, in the opinion of the inspector, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the ~~department~~Department or local government official to assign inspectors to the work, the permittee shall pay the ~~department~~Department or local government issuing the permit an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the inspector or inspectors assigned by the ~~department~~Department or local government for handling work covered by this chapter. Said inspection fee to be paid promptly each month on bills rendered by the ~~department~~Department or local government.

The absence of a state or local government inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of § 33.2-1221 of the Code of Virginia, this chapter, or permit.

B. The inspector or local government official shall be notified at least seven days in advance of the date any work is to be performed and when completed, in order than an inspection may be made.

C. ~~No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.~~

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a certified arborist, and tree workers shall be approved by the inspector or local government official, prior to issuance of a permit to perform work under this chapter. The certified arborist supervising the work shall remain on-site whenever work is underway.

All brush, wood, etc., shall be ~~chipped and beneficially used or~~ removed immediately and disposed of in accordance with the Solid Waste Management Regulations (9VAC20-81) of the Virginia Waste Management Board.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways, except where a local beautification project has allowed landscape plant material to be planted within a median area. Plant material in median areas may be relocated to other areas within the local beautification project limits in accordance with an approved landscape plan. All work performed on ~~VDOT~~Department rights-of-way shall comply with the Virginia Work Area Protection Manual (~~part of see 24VAC30-310-10 et seq.~~). Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to ~~department~~Department or local government official directions and shall be completed to the satisfaction of the inspector or local government official, or his representative.

E. The ~~department~~Department or local government official reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the ~~department~~Department or local government official may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the ~~department~~Department or local government official may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately ~~have corrected~~correct any condition that may arise as a result of this

work that the ~~department~~Department or local government official deems hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit Regulations (24VAC30-151).

G. Permittees and their agents to whom permits are issued shall at all times indemnify and save harmless the ~~Commonwealth Transportation Board~~, local city or town councils, local boards of supervisors, and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the ~~board~~Board and others. All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the ~~department~~Department or local government official by the permittee.

H. The permittee agrees that if the work authorized by this chapter including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the ~~department~~Department or local government official, the ~~department~~Department or local government official will do whatever is required to restore the area within the right-of-way to ~~department~~Department standards, and the permittee will pay to the Commonwealth or local government official the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain that will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the ~~department~~Department or local government official.

J. Road drainage shall not be blocked. The pavement, shoulders, ditches, roadside and drainage facilities, shall be kept in an operable condition satisfactory to the ~~department~~Department or local government official. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia) and Erosion and Sediment Control Regulations (9VAC25-840).

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. The permittee shall notify and receive clearance from the utility owner or owners and comply with the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq. of the Code of Virginia) before

proceeding with work in the vicinity of utilities.

L. Where landscape is disturbed on state rights-of-way or local street and roads not under the jurisdiction of the Commissioner of Highways in accordance with § 33.2-1202 of the Code of Virginia, it shall be replaced with a minimum of two inches of topsoil and reseeded according to ~~department specifications~~ the terms of the permit.

24VAC30-200-35. Appeal to the Commissioner of Highways.

A. Appeals by the local government official.

1. The local government official appeal of a landscape plan shall be in writing within 60 days of the permittee submitting a permit application and accompanied by a \$400 fee.
2. The appeal shall specify reasons why the local government official is dissatisfied with the landscape plan and why it does not meet the intent of § 33.2-1221 of the Code of Virginia. It shall include any motorist or worker safety concerns, selection of plant material, placement of plant material, method or time-of-year for planting or relocating plant material, and any other pertinent information.

B. Appeals by the permittee.

1. The permittee appeal of a landscape plan shall be in writing within 10 days after final action of the local government official and shall be accompanied by a \$400 fee.
2. The appeal shall specify reasons why the permittee is dissatisfied with the action or stipulations placed on the permittee by the local government official including all pertinent information to help the Commissioner of Highways make a final determination.

C. Commissioner of Highways' determination of appeal.

The Commissioner of Highways shall consult ~~department~~ Department personnel with expertise in horticulture and landscape architecture in making a final determination on the merits of the landscape plan presented by the permittee, weigh objections by both the local government official and the permittee, and shall provide a final determination within 30 days of receipt of the appeal request.

24VAC30-200-40. ~~Listing of documents incorporated by reference. (Repealed.)~~

~~Information pertaining to the availability and cost of any of these publications should be directed in~~

writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.

1. ~~24VAC30-151, Land Use Permit Regulations (2010), VDOT~~
2. ~~VDOT Road and Bridge Specifications (effective January 2002), VDOT~~
3. ~~24VAC30-310-10, Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual), VDOT~~
4. ~~4VAC50-30, Virginia Erosion and Sediment Control Regulations, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219~~
5. ~~9VAC20-81, Solid Waste Management Regulations, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219~~
6. ~~American National Standards Institute (ANSI) Standard for Tree Care Operations, Tree, Shrub and Other Woody Plant Maintenance Standard Practices — ANSI A300-1995 (effective June 1, 1995), Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush Safety Requirements — ANSI Z133.1-1994 (effective August 1, 1994), American National Standards Institute, 11 West 42nd Street, New York, NY 10036~~
7. ~~American National Standards Institute (ANSI) American Standard for Nursery Stock — ANSI Z60.1-1996 (effective November 6, 1996), American Association of Nurserymen, 1250 I Street, N.W., Suite 500, Washington, DC 20005~~
8. ~~Tree Pruning Guidelines (effective 1995), International Society of Arboriculture, P.O. Box GG, Savoy, IL 61874~~

FORMS (24VAC30-200)

~~Vegetation Control Application, Form TTB (rev. 10/98)~~ [Outdoor Advertising Vegetation Control Land Use Permit Application, Form LUP-OAVC \(rev. 8/2016\)](#).



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-151
VAC Chapter title(s)	Land Use Permit Regulations
Action title	Chapter 151 Regulatory Reform and Periodic Review
Date this document prepared	██████, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 Land Use Permit Regulations, 24VAC30-151, permit work activities on the right-of-way of state highways for construction, utility installations, entrances, events, and other activities. The Commonwealth Transportation Board (CTB) has undertaken a comprehensive review of 24VAC30-151. The intent of this action is to remove redundant or obsolete language and to achieve regulatory reduction and streamlining in accordance with Governor Youngkin's Executive Order 19.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

“CFR” means the Code of Federal Regulations.
“Department” or “VDOT” means the Virginia Department of Transportation.
“DIBR” means Documents Incorporated by Reference.
“U.S.C.” means the United States Code.

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”

On June 21, 2023, the CTB approved a Notice of Intended Regulatory Action to review 24VAC30-151 to potentially amend any overly burdensome requirements, remove any obsolete information, and provide more clarity with streamlined regulatory requirements. The CTB conducted a review of its regulations in accordance with Governor Youngkin’s Executive Order 19 (EO 19). As a result of this review, the CTB identified several areas for streamlining within this regulation. The CTB approved the proposed amendments on [REDACTED], 2024.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The Commonwealth Transportation Board promulgated the Land Use Permit Regulations pursuant to its general authority to make regulations “for the protection of and covering traffic on and for the use of systems of state highways” in § 33.2-210 of the Code of Virginia. Federal law, including 23 U.S.C. 111 and 23 CFR 710.403, requires states to restrict access to and use of certain highway rights-of-way.

Additional Code sections authorize certain sections or aspects of the Land Use Permit Regulations. Section 33.2-118 authorizes the Department to issue permits for mobile food vending in certain parking areas. Section 33.2-216 requires the CTB to “establish regulations regarding size, distance from the roadway, and other safety concerns to govern the installation, maintenance, and removal of roadside memorials, plaques, and other devices placed within the right-of-way that commemorate the memory of persons killed in vehicle crashes within the right-of-way of any state highway.” Sections 33.2-240, 33.2-241, and 33.2-245 of the Code of Virginia authorize the Department and the CTB to regulate access to and entrances onto the state highway system.

Section 2.2-1151.1 authorizes the department to issue permits for “(i) a person providing utility service solely for his own agricultural or residential use, provided that the utilities are located on property owned by the person, or (ii) the owner of a private residence or business for water or sewer service to cross the Department’s right-of-way when no viable alternative exists to provide potable water or to transfer sewer effluent to a qualified drain field.” Several additional sections of the Code of Virginia authorize the CTB and the Department to regulate the access to and use of the highway right-of-way by various utilities, including §§ 56-458 and 56-484.28.

Additionally, federal regulations authorize or mandate regulation of the use of highway right-of-way, including 23 CFR Part 645, Subpart B (Accommodation of Utilities).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The Land Use Permit Regulations set forth the rules that individuals, localities, and other entities must follow to conduct activities other than travel on highway systems that are under VDOT’s jurisdiction. These include activities such as installation of utilities, construction of private and commercial entrances, landscaping, the temporary use of the right-of-way, as well as numerous other types of activities. The regulations set forth criteria used by VDOT when determining whether to issue a permit and are intended to preserve the integrity of the highway system and protect the safety of motorists, pedestrians, and highway workers. Land use permits address safety issues such as proper procedures for temporarily closing travel lanes, standards for entrances and access points onto highways, affixing signs and other objects to structures in the right-of-way, and location and protection of utility lines. As such, the Land Use Permit Regulations are necessary for the protection of the health, safety, and welfare of the public traveling on or near public highways.

The proposed regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Several changes will add administrative updates or bring the text in line with current practice. These proposed changes are necessary to protect the public as they ensure the text of the regulation provides the necessary clarity for permittees to understand the requirements of the permit process. The CTB also proposes to remove the Documents Incorporated by Reference (DIBR) and instead reference those documents in the terms of the land use permit secured by regulated entities. These DIBR include standards and specifications with which regulated entities are required to comply. This will ensure the most relevant versions of the documents are being followed by regulated parties, more narrowly tailor requirements to the specific type of permit and associated activity, and ease burdens on permittees in determining applicability.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

In addition to administrative updates, elimination of redundancy, adding clarifying language, and bringing the text in line with current practice, the CTB proposes to remove the DIBR from this regulation and instead include the relevant documents in the terms of the land use permits. Other changes that could be considered substantive include the amendments related to insurance requirements and permittee responsibilities in section 40, the broadening of section 500 to apply to all governmental agencies, the expansion of section 520 to include all commercial filming, and the addition of volunteer mowing or litter pickup to section 620.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary benefit to both the public and the Commonwealth of the removal of the DIBR section is improved clarity for regulated entities, ensuring they are aware of the specific documents relevant to them by including them in the terms of the land use permits. This change will also ensure the most relevant version of each document is clearly specified for compliance. There are no disadvantages to this proposed change, as the permit forms will be updated to correspond to this change and all permit forms are publicly available on VDOT's website.

Amendments to section 40 will require permittees to maintain comprehensive general liability insurance with limits of at least \$1,000,000 per occurrence and \$5,000,000 in the aggregate, or in amounts otherwise required by VDOT stated in the permit, strengthen the indemnification and hold harmless language, and clarify permittee responsibilities for facilities installed within the right-of-way under permit. These changes are intended to protect the Commonwealth by ensuring permittees are adequately covered against liability for personal injury and property damage in connection with all activities undertaken under a permit and by clarifying that the Commonwealth is not liable for costs related to permittee violations and actions. By setting required minimum insurance amounts, some permittees may need to obtain higher levels of coverage than they would otherwise obtain under the current requirements. Furthermore, the movement of language from section 300, which pertains to utility installations, to section 40 for general applicability may require some permittees to take on additional costs to assume full responsibility for damages caused by improperly installed and/or maintained facilities within the right-of-way under permit.

The primary advantage to the public of the proposed changes to sections 500, 520, and 620 is the enhancement of statewide consistency and a reduction in permit processing time, as the requests submitted by the impacted applicants will no longer require approval from the Department's Central Office prior to issuance by the residency.

The other proposed changes to the regulation benefit the public through removing redundant or outdated language or providing additional clarity and are not anticipated to present disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements that are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory changes.

Localities Particularly Affected

Localities are not particularly affected unless they own utilities and want to install new lines within the right-of-way, or if they want to install hydrological study equipment within the right-of-way.

Other Entities Particularly Affected

Affected entities could include utility companies, real estate developers, and those involved in commercial filming or volunteer mowing and litter pick up.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	There are no anticipated costs, savings, fees, or revenues for VDOT resulting from the regulatory change.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no anticipated costs, savings, fees, or revenues for other state agencies resulting from this regulatory action.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	There are no anticipated costs, savings, fees, or revenues for localities resulting from this regulatory action.
Benefits the regulatory change is designed to produce.	The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>All permittees will be impacted by the amendments regarding insurance requirements and permittee responsibilities. Utility companies, real estate developers, and entities involved in commercial filming or volunteer mowing and litter pick up will be affected by other proposed changes.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The number of entities that could be affected is unknown at this time.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>Some permittees may need to maintain higher levels of comprehensive general liability insurance under the proposed changes than under the status quo. Costs could possibly accrue to permittees whose activities or violations directly or indirectly result in claims, causes of action, losses, costs, attorney’s fees, expenses, and damages if those permittees would have previously sought to recover costs from the Commonwealth and associated entities under the status quo language. Furthermore, some permittees may be required to take on additional costs to assume full responsibility for damages caused by improperly installed facilities within the right-of-way and for continuing maintenance of its facilities placed within the right-of-way under permit due to the new general applicability of this language.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

The proposed regulatory changes were identified during a review conducted in accordance with the principles of EO 19. The focus of the review was to reduce overly burdensome requirements, remove any

obsolete information, and provide more clarity with streamlined regulatory requirements. As such, no alternative to the proposed changes were identified.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

The CTB proposes to remove the DIBR from the regulation and instead reference those documents in the terms of the land use permits secured by regulated entities. This will ease the burden on regulated entities, including small businesses, by more narrowly tailoring requirements to the specific type of permit and associated activity and making it easier for permittees to determine applicability of the documents.

Otherwise no alternative regulatory methods are applicable, nor were alternative regulatory methods considered.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The proposed changes to the Land Use Permit Regulations are largely intended to reduce redundancy and improve clarity of the regulation in alignment with the criteria set out in EO 19 and the ORM procedures. The regulation allows for the protection of public health, safety, and welfare and continues to be needed. The regulation does not overlap or conflict with state or federal law or regulation, and it is not overly complex. It was last reviewed in 2020 and no complaints have been received since the last review. Small business permittees may be affected by the proposed amendments if they take on more liability responsibility or need to obtain higher levels of comprehensive general liability insurance than they would otherwise have obtained under the status quo; however, permittees currently carry this insurance and the

proposed minimums are not anticipated to result in significant changes in costs for permittees, and the liability responsibilities will not disproportionately impact small businesses.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The CTB is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jo Anne Maxwell, Agency Regulatory Coordinator, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, JoAnne.Maxwell@VDOT.Virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
151-10	N/A	Section 10 defines the words and terms used in the regulation.	<p>The DIBR reference will be removed from the definition of “Clear zone” to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>Definitions for “Chief Engineer,” “Permit agreement,” “Shared resource agreement,” and “Wireless support structure agreement” will be added to provide further explanation for terms used in the regulation. The definitions of “Central office permit manager,” “Commercial entrance,” “District administrator,” “Permit,” “Permittee,” “Private entrance,” “Right-of-way,” “Service connections,” “System of state highways,” “Transportation project,” and “VDOT” will be amended to clarify and streamline the definitions. “Manhole” and “Power line” will be removed as these definitions are no longer necessary. Minor formatting or grammatical edits will be made to the definitions of “District administrator’s designee,” “Limited access highway,” and “Non-betterment cost.”</p>
151-20	N/A	This section outlines VDOT’s authority to issue permits for work performed on any real property under the ownership, control, or jurisdiction of VDOT.	<p>Additional Code of Virginia sections will be included in the sentence describing the authority by which the General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-21) are adopted. In addition to work, “non-transportation uses” will be added to the activities for which written permission is required before the activity is allowed or performed on the system of state highways or any right-of-way or real property under the ownership, control, or jurisdiction of VDOT. This change is intended to reflect that some activities which require a permit are not “work,” including parades and races.</p> <p>Formatting and clarifying updates will also be made to this section.</p>

151-30	N/A	<p>This section states when a permit is required and specifies the type of permit required for different activities in the right-of-way.</p>	<p>The title of this section will be amended to read, "Types of permits and permit agreements." The current text of subsection A will be removed as the provisions are repeated elsewhere in section 30. The numbering for the remaining subsections will be adjusted.</p> <p>Clarity will be added to the subsection on single use permits (currently subsection B, proposed subsection A). Provisions concerning single use permits which were previously found in other subsections of section 30 will now be consolidated into this subsection.</p> <p>The subsection dealing with districtwide permits (currently subsection C, proposed subsection B) will be rewritten to streamline and consolidate the text.</p> <p>Clarifications will be added to the subsection pertaining to prior-rights permits (currently subsection E, proposed subsection D).</p> <p>In the subsection on as-built permits (currently subsection F, proposed subsection E), text will be added stating that "Utility facilities required to be relocated within a right-of-way due to a conflict with a transportation project or other use of the right-of-way by the public or the Commonwealth may be issued an as-built permit upon completion of the project and the mutual agreement between VDOT and the utility for such relocation." This text more accurately reflects the situations for which this type of permit may be issued.</p> <p>In the subsection regarding agreements (currently subsection G, proposed subsection F), the text requiring an agreement for any perpendicular crossing of limited access right-of-way will be removed to correspond with current Department practice. "Median" will be added to the locations for which an agreement will be required for a new longitudinal occupancy, and "occupancy of a VDOT-owned wireless support structure" will be added and "new communication tower or small site facilities installed within the right-of-way, as allowed for in 24VAC30-151-300"</p>
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			<p>removed in subpart 1b for clarity and consistency with the Code of Virginia. Further clarification will be added to subpart 2 regarding shared resource agreements, noting that in exchange for occupancy of limited access right-of-way, utilities provide a combination of goods, facilities, services, or monetary compensation to VDOT. Other streamlining and clarifying edits will be made to this subsection.</p> <p>A new subsection will be added to clarify that no permits shall be required for placement of mailboxes and newspaper boxes in accordance with this regulation.</p> <p>Additional formatting updates will be made, text will be amended to align with other sections, and text that is redundant with other sections of this regulation or the Code of Virginia will be removed.</p>
151-40	N/A	Section 40 describes the general rules, regulations, and requirements for land use permits.	<p>A sentence will be added to subsection A stating, "The terms of every permit include and incorporate by reference this chapter as well as all federal, state, and local requirements applicable to a permittee's activities under the permit." This corresponds to the removal of the DIBR from the regulation. Other clarifications regarding contractors and agents will be included.</p> <p>The responsibility for approving activities within limited access right-of-way prior to permit issuance will be changed from the Commissioner of Highways to the Chief Engineer. This change is to align with 24VAC30-401 and current VDOT practice.</p> <p>In subsection B, the amendments will remove the requirement for single use permits that "consolidation shall not be for a length greater than two miles." This change will enable VDOT to allow a permit to cover more geographic area without requiring a special permit under section 660, which will reduce the complexity of the permit process.</p> <p>Subsection C will be reorganized for improved readability.</p> <p>In subsection F, new text will require permittees to secure and maintain</p>

		<p>commercial general liability insurance with limits of at least \$1,000,000 per occurrence and \$5,000,000 aggregate, or in amounts otherwise required by VDOT as stated in the permit. These amounts are proposed to be specified in the regulation for clarity, as they are generally the amounts VDOT currently requires in permits.</p> <p>New subsections G and H will be added to clarify permittee responsibilities for damages and continuing maintenance. These sections have been moved from section 300, which relates to utility installations, to section 40 to reflect their general applicability to all permits.</p> <p>Strengthened indemnification and hold harmless language will be added to newly numbered subsection I. These changes are intended to protect the Commonwealth by ensuring permittees are adequately covered against liability for personal injury and property damage in connection with all activities undertaken under a permit and by clarifying that the Commonwealth is not liable for costs related to permittee violations and actions.</p> <p>A new subsection (L) will be added requiring all work to be done in accordance with all federal, state and local requirements and the terms of the land use permit. This will be added to correspond with the removal of references to specific DIBR to reflect the inclusion of the relevant manuals and specifications within the terms of the permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>Newly numbered subsection R will be streamlined to state that the permittee is responsible for any settlement in the backfill or pavement after the completion of work activities under the permit or for any settlement caused by the installed facility.</p> <p>A sentence will be added to newly numbered subsection V to state, "The</p>
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			<p>permittee may not rely upon any act, statement, or failure to act on the part of VDOT with respect to inspection nor shall the failure of VDOT to fully or properly inspect any work in any way excuse the permittee from any of its duties or obligations under the permit, law or regulation.” Similar language exists in section 70 of the regulation, but the more comprehensive language is proposed to be included here for clarity.</p> <p>Certain requirements which are restated in other regulations and DIBR will be removed. Other streamlining and clarifying edits will be made to this section.</p>
151-50	N/A	This section discusses violations and liability concerns.	The title of this section is proposed to be updated to “Objects in the right-of-way.” Subsections B-D are proposed to be deleted as the text is duplicative of other sections of the regulation.
151-80	N/A	Section 80 sets the standards regarding permit time limits, extensions, and cancellations.	<p>In subsection A, the requirement that the time limit for work to be accomplished under the permit shall not normally be less than six months in duration will be removed to eliminate potential confusion as to the regulatory requirements.</p> <p>Subsection B will be amended to clarify that it applies to single use permits and that permittees must request a time extension prior to the expiration of the permit. Calendar days will be changed to business days to better reflect VDOT’s ability to respond to a request. Redundant text in subsection B will also be removed.</p> <p>Subsection C will be clarified to reflect that a permit may be cancelled if no work has started within 30 days of issuance or such additional time as authorized by the district administrator’s designee.</p>
151-90	N/A	This section describes the hours for work under the authority of a permit and the restrictions for work on holidays.	The list of holidays included in this section will be expanded to all state observed holidays to better reflect holiday traffic patterns. Other clarifications to this section will also be made.
151-110	N/A	This section outlines the conditions that would lead to a permit being revoked or denied.	Flexibility will be added to subsection A to allow permits to be either revoked or suspended upon written finding of a violation. New language will be added to allow for a completed permit to be revoked and the facility or use for which

			<p>it was issued required to be removed or relocated at the direction of the Commissioner of Highways if the facility or use obstructs or interferes with a transportation project or the improvement, maintenance, or operation of a right-of-way. The text will clarify that all costs to remove and/or relocate the facilities or uses or otherwise resulting from the permit revocation shall be incurred and paid by the permittee unless otherwise specifically provided for by law. Additional amendments to this subsection will clarify that suspended permits shall be noted as such and that no work or use shall be allowed under a suspended permit, and that misrepresentations, fraudulent actions, or repeated violations may result in a permanent denial of the right to work within or use the right-of-way. This change is intended to limit impacts to construction schedules, thereby avoiding work orders and associated costs.</p> <p>A new subsection B will be added explaining the unique provisions relating to revocation of districtwide permits. Clarifications to newly numbered subsection C will explain that permits may be denied to any applicant or joint applicant when the applicant or joint applicant, or its contractors or agents, have violated or are in violation of any term of a permit or of any federal, state, or local requirement applicable to work or use under a permit.</p>
151-120	N/A	Section 120 outlines the provisions governing entrances.	This section is proposed to be repealed as the text is duplicative of other sections in this regulation and the Code of Virginia.
151-220	N/A	This section covers commercial use agreements in instances where wider rights-of-way are acquired by VDOT for the development of a highway at such time as adequate funds are available for the construction of the highway.	This section is proposed to be removed as it is no longer VDOT practice to acquire wider rights-of-way than needed at a specific time. In any instance where the situation covered under this section could occur in the future, section 660 relating to special permits would apply.
151-230	N/A	This section covers agricultural use agreements in instances where wider rights-of-way are acquired by VDOT for the development of	This section is proposed to be removed as it is no longer VDOT practice to acquire wider rights-of-way than needed at a specific time. In any instance where the situation covered under this section

		a highway at such time as adequate funds are available for the construction of the highway.	could occur in the future, section 660 relating to special permits would apply.
151-240	N/A	Section 240 deals with the requirements of a VDOT permit for dams for farm ponds within the right-of-way.	Administrative updates will be made to this section.
151-260	N/A	Section 260 sets the requirements for railroad companies which request railroad crossing permits.	Subsection A will be streamlined to state, "VDOT may permit railway crossings." In subsection C, "Construction bond" will be changed to "surety" to correspond to the requirements in other sections of this chapter.
151-270	N/A	Section 270 sets the requirements for non-railroad companies which request railroad crossing permits.	"Performance and indemnifying bond" will be changed to "suitable surety" to correspond to the requirements in other sections of this chapter. Text that is redundant with the Code of Virginia will be removed and other formatting updates will be made.
151-280	N/A	This section describes the permit process for landowners whose springs, wells or facilities are acquired by VDOT.	This section is proposed to be repealed as it is no longer utilized. In any instance where the situation covered under this section could occur in the future, section 660 relating to special requests would apply.
151-290	N/A	This section describes the allowance for, and requirements related to, public telephone booths.	This section is proposed to be repealed as it is no longer utilized.
151-300	N/A	Section 300 outlines the requirements for utility installations on highway rights-of-way.	Text clarifying permittee responsibilities for damages and continuing maintenance has been moved to section 40 from section 300 to clarify that these requirements apply to all permits. Additional administrative and streamlining updates will be made to this section.
151-310	N/A	Section 310 sets the requirements for utility installations on all limited access highways.	In subsections A and D, the responsibility for reviewing and approving requests for utility installations within limited access right-of-way and for approving longitudinal utility installations within limited access right-of-way will be changed from the Commissioner of Highways to the Chief Engineer. This change is to align with current VDOT practice. Other clarifying amendments will be added to this section.
151-330	N/A	Section 330 outlines the requirements for overhead	A sentence will be removed in subsection D which reads, "Longitudinal pole line installation shall be located on

		utility installations within nonlimited access highways.	the outer 15 feet of the right of way greater than 40 feet in width.” “Communications tower” will be changed to “wireless support structure” for consistency with the Code of Virginia. Administrative updates will be made and references to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.
151-340	N/A	This section describes the requirements for underground utility installations within nonlimited access highways.	Administrative and streamlining updates will be made to this section.
151-350	N/A	Section 350 provides for the installation of communication tower structures and other types of surface mounted or underground utility facilities by a utility company and outlines requirements of the utility company and VDOT.	The title of this section is proposed to be updated to, “Wireless support structures and site installations.” “Communications towers” will be changed to “wireless support structures” in the section title for consistency with the Code of Virginia. Other streamlining and clarifying updates will be made.
151-360	N/A	Section 360 describes the requirements of permittees regarding pipelines.	The requirement for permittees to maintain minimum cover for any underground facility will be clarified to add, “...as established by the VDOT standards and specifications set forth in the terms of the permit or as otherwise required by applicable law, whichever is greater.” The phrase “incorporating the principles of new urbanism” will be removed. The phrase currently relates to high density developments as locations where utilities may be placed under the pavement. The phrase has been removed from the corresponding section of the Code of Virginia, § 15.2-2223.1, and as such should be removed from this regulation. Other clarifying edits will be made to this section.
151-380	N/A	This section outlines the requirements for vents; drains; permanent utility markers; manholes and associated frames and covers, valve boxes, and other castings; and shutoff valves.	The amendments would change “manholes” to “utility access points” in subsections D and E. This will allow for the regulation to better address different types of access points, including manholes and handholes.

151-390	N/A	This section deals with in-place and prior-rights permits for utilities.	A sentence will be added to subsection C stating, "Should VDOT later require the permittee to alter, change, adjust, or relocate any utility, the cost will be the responsibility of the permittee." This sentence will clarify the responsibility of a utility owner that does not have a prior right to be located within the right-of-way and align the section with current VDOT practice. Other clarifying edits will be made to this section.
151-400	N/A	This section describes the permit requirements for facilities relocated in conjunction with a VDOT project.	The amendments will clarify that a permittee must obtain a new permit for facilities directed to be relocated within or to right-of-way in conjunction with a transportation project, and that the relocation must be done in a timely manner and at the permittee's sole expense unless otherwise specifically provided in the Code of Virginia. References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.
151-420	N/A	Section 420 describes the permit requirements for lighting facilities.	<p>Subsection A will be streamlined to remove the distinction between roadway and nonroadway lighting since the requirements imposed by VDOT as a condition of land use permit approval are largely the same for both. The amendments will also clarify that lighting designed to illuminate the pavement or adjacent pedestrian or bicycle facilities is subject to a permit.</p> <p>Subsection B will be amended to remove the references to specific DIBR. Instead, the text will require the design of lighting systems and fixtures to be in accordance with § 2.2-1111 of the Code of Virginia, which sets requirements for lighting design by VDOT and other road agencies.</p> <p>In subsection C, the DIBR reference will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on</p>

			<p>regulated entities to determine the applicability of specific documents. Flexibility will be added to this subsection through the allowance of drawings to be submitted electronically. Applicants will be required to submit photometric calculations and wattage for the fixtures to reflect the prevalence of LED fixtures. "Permittee" will also be updated to "applicant."</p> <p>Amendments in subsection D will allow VDOT to require modification or removal of luminaries if they are determined to provide excessive light trespass into adjacent properties. This will allow VDOT to address citizen complaints about glare from lighting fixtures. Other changes to subsection D correspond to the changes in subsection A to remove the distinction between roadway and nonroadway lighting.</p>
151-430	N/A	This section outlines the requirements for attachments of utilities to bridge structures.	Clarity will be added to subsection A to require approval of the district structure and bridge engineer "in accordance with VDOT specifications." Subsection B will be amended to clarify that the requirements apply to "lines carrying electricity."
151-440	N/A	Section 440 sets the requirement for a permit to be obtained for uses of real property under the ownership, control or jurisdiction of VDOT.	This section is proposed to be repealed in conjunction with the addition of "non-transportation uses" to section 20 to remove redundancy from the regulation.
151-450	N/A	This section outlines the permit requirements for hanging banners or erecting decorations across state highways.	The list of entities which are required to obtain a permit under this section will be expanded to include other individuals and entities to ensure proper permits are obtained for banners and decorations.
151-460	N/A	Section 460 describes the permit requirements for building movements over 16 feet wide.	The amendments streamline the requirement that requests for building movements be approved by the district administrator's designee in the district where the move initiates by removing a duplicative sentence.
151-490	N/A	Section 490 states that a permit is required for construction or reconstruction of roads, bridges or other drainage structures and details the requirements for such a permit.	"Private and commercial entrances" and "other transportation facilities" will be added to the list of items for which a permit is required under this section for clarity.

151-500	N/A	This section allows for the issuance of permits to any governmental state agency to install hydrological study equipment within highway rights-of-way.	The proposed change would remove “state” from the type of governmental agencies covered under this section. Currently, non-state governmental agencies obtain these permits under section 660. This change will eliminate the need for a special permit.
151-520	N/A	Section 520 sets the permit requirements for filming for movies within the highway rights-of-way.	This section would be broadened to apply to all commercial filming as the current restriction to movie filming does not encompass the breadth of possible filming which could present a threat to safety if not conducted under the proper permit.
151-550	N/A	This section establishes the permit requirements regarding the authorized location and removal of roadside memorials.	Formatting and clarifying updates will be made, and text that is redundant or unnecessary will be removed for streamlining purposes.
151-560	N/A	This section outlines the requirements for the placement of mailboxes and newspaper boxes, and states that placement should not interfere with safety, maintenance and use of the roadway.	The amendments propose to change “should” to “shall” regarding the requirement that placement of mailboxes and newspaper boxes not interfere with safety, maintenance and use of the roadway. This strengthened requirement will help prevent safety issues regarding the placement of these boxes within the VDOT right-of-way.
151-570	N/A	Section 570 describes the conditions for placement of certain public service signs within the right-of-way without a permit.	<p>The title of this section will be broadened from “Miscellaneous signs” to “Miscellaneous signs and devices.” A new subsection C will be added stating, “The Commissioner of Highways or his designee may authorize the placement of various automated traffic enforcement devices for the Commonwealth or its political subdivisions as may be allowed by law.” These changes will allow for the placement of automated traffic enforcement devices under this section of the regulation as they are not currently addressed elsewhere.</p> <p>Subsections A(4) and A(5) are proposed to be removed. This text covers VDOT activities for which permits are not needed, and as such, the text is unnecessary.</p> <p>Formatting updates will be made and text that is redundant or unnecessary will be removed for streamlining purposes.</p>
151-580	N/A	Section 580 outlines the requirements for ornamental posts, walls, residential and commercial development	References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits.

		identification signs, or other nontransportation-related elements.	<p>This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>Text that is redundant or unnecessary will be removed for streamlining purposes.</p>
151-590	N/A	Section 590 discusses permits for outdoor advertising adjacent to the right-of-way.	This section is proposed to be repealed as the requirements are duplicative with those included in Chapter 12 of Title 33.2 of the Code of Virginia, 24VAC30-120, and 24VAC30-200.
151-600	N/A	This section describes the requirements for the installation and maintenance of sidewalks, steps, curb ramps, shared use paths, pedestrian underpasses and overpasses within right-of-way, as well as the installation of pedestrian or bicycle facilities within limited access rights-of-way.	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents. New text will be added to this section requiring VDOT to maintain “facilities that are open for general public use, built in the right-of-way to VDOT standards, and accepted by VDOT for maintenance.”</p> <p>Additionally, the required approval of the installation of pedestrian or bicycle facilities parallel to and within the right-of-way of nonlimited access highways crossing limited access highways by way of an existing bridge or underpass by the Commissioner of Highways will be changed to the Chief Engineer. This will align this section the equivalent change described in section 40.</p>
151-620	N/A	Section 620 discusses the permit requirements for landscaping and roadside management by individuals or organizations. The permit applicant is required to “maintain any altered roadside area in perpetuity.”	<p>The amendments clarify that placement and maintenance of plant materials by individuals or organizations may be allowed under a single use permit and that the permit applicant will be required to maintain any altered roadside area for the life of the permit instead of in perpetuity. This change addresses potential situations where perpetual maintenance would not be reasonable, such as future construction which removes the landscaping area.</p> <p>A new paragraph will be added to this section to outline the permit and safety requirements for volunteer mowing or litter pickup. This addition will ensure</p>

			<p>volunteer mowing and litter pickup are conducted in accordance with VDOT's safety standards for the protection of the volunteers and the motoring public.</p> <p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p>
151-630	N/A	Section 630 sets the permit requirements for school bus shelters, public transit shelters, or ride share stations.	References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents. Other clarifying edits will be made to this section.
151-670	N/A	This section outlines the uses of right-of-way for which a permit shall not be issued.	<p>Examples of signs that are prohibited within the right-of-way will be added. New exceptions for the placement of bike share or other micromobility systems and the installation of electric vehicle charging stations, as may be allowed by law, will be added to reflect the prevalence of and/or future need for these facilities.</p> <p>A new reference to section 350 of this chapter will also be added to the subsection on dwellings to reflect the potential need for support buildings in connection with wireless communication facilities. Clarifications will be added and text that is redundant or unnecessary will be removed for streamlining purposes.</p>
151-690	N/A	This section discusses the permit requirements for discharges made to VDOT right-of-way.	Formatting and clarifying updates will be made to this section.
151-700	N/A	This section outlines the requirements for permit applicants regarding fees, surety, and other compensation.	Formatting and clarifying updates will be made to this section.
151-710	N/A	Section 710 sets the fees for the different types of single-use and district wide permits	For consistency with the Code of Virginia, a sentence will be added to subsection A(1) stating, "Public rights of way use fees may be charged in lieu of

		<p>and outlines the various no-fee permits.</p>	<p>permit fees in certain situations in accordance with law.”</p> <p>Changes will be made to subsection A(3) to specify fees of \$50.00 for permit term extensions for active permits and \$100 for the reinstatement of expired permits. These changes will clarify the existing intent of the regulation and align the text with current VDOT practice.</p> <p>Subsection A(4) will be amended to state that VDOT will retain the entire application fee, including the full additive fee, for permits cancelled prior to the beginning of the permitted activity. This will reduce the burden on VDOT permit and fiscal staff processing the refunds.</p> <p>In subsection B, a provision will be added to allow the central office permit manager to authorize unlimited time extensions at the full cost of the permit fee for each two-year term. This will reduce the paperwork burden on permittees as the paperwork required for a permit extension is less than that for a new permit request.</p> <p>The amendments propose to eliminate the current subsection C on miscellaneous permit fees in conjunction with the addition to subsection A(1).</p> <p>Other clarifications, changes corresponding to edits to other sections, and formatting updates will be made to this section.</p>
151-720	N/A	<p>Section 720 outlines the requirements for performance sureties in subsection A and continuous sureties in subsection B.</p>	<p>The requirement for an applicant for a districtwide permit for utilities to provide a continuous surety in the amount of \$10,000 per county, and for an applicant for a districtwide permit for logging entrances to provide a continuous surety in the amount of \$10,000 per district will be moved from subsection B to subsection A. Additionally, the amendments will clarify that VDOT must be named as an obligee on the bond or a payee for a check, cash, or irrevocable letter of credit for the required performance surety.</p> <p>The heading for subsection B will be updated from “continuous surety” to “structure bond” to better reflect the</p>

			<p>content of the subsection. The sentences from subsection B dealing with continuous surety will be moved to subsection A.</p> <p>Other clarifications and formatting updates will be made to this section.</p>
151-730	N/A	<p>Section 730 describes the required accommodation fees for the use of the right-of-way by a utility.</p>	<p>This section will be updated to reflect that the value of the right-of-way being used to accommodate a utility facility will be used as the basis for determining annual compensation. The specified fees for limited access crossings and limited access longitudinal installation will be removed. The specified fees for wireless communication facility sites will be removed and references to the Code of Virginia and section 740 of this regulation inserted. These changes will align the text with current VDOT practice and eliminate language that could potentially result in the assessment of unnecessary fees.</p> <p>Text that is redundant or unnecessary will be removed for streamlining purposes. Other clarifications and formatting updates will be made to this section.</p>
151-740	N/A	<p>This section sets the exceptions and provisions to the payment of fees and compensation.</p>	<p>A new subsection F will be added to state that, "VDOT may enter into wireless support structure agreements to permit the construction of wireless support structures or wireless facilities' occupancy of the right of way, consistent with applicable law." This addition will allow for items included in Chapter 15.1 of Title 56 of the Code of Virginia to be more completely covered by the regulation. Formatting and clarifying updates will also be made to this section.</p>
151-760	N/A	<p>This section lists the DIBR for the regulation.</p>	<p>The DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p>
FORMS	N/A	<p>This section contains the land use permit forms.</p>	<p>The forms included in this section will be updated to reflect the removal of the DIBR from the regulation and the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are</p>

			being followed and ease the burden on regulated entities to determine the applicability of specific documents.
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If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage



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Proposed Regulation Agency Background Document

Agency name	Commonwealth Transportation Board
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-200
VAC Chapter title(s)	Vegetation Control Regulations on State Rights-of-Way
Action title	Chapter 200 Regulatory Reform and Periodic Review
Date this document prepared	██████, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 Vegetation Control Regulations, 24VAC30-200, enable the Virginia Department of Transportation (VDOT) to permit vegetation removal, set forth the standards for which vegetation removal shall be permissible, and analyze proposed vegetation removal applications in order to mitigate any potential adverse impacts on the aesthetics and health of vegetation and state-controlled highways. The Commonwealth Transportation Board (CTB) has undertaken a comprehensive review of 24VAC30-200. The intent of this action is to remove redundant or obsolete language and to achieve regulatory reduction and streamlining in accordance with Governor Youngkin's Executive Order 19.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

“CTB” means the Commonwealth Transportation Board.

“DIBR” means Documents Incorporated by Reference.

“Department” or “VDOT” means the Virginia Department of Transportation.

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”

On June 21, 2023, the CTB approved a Notice of Intended Regulatory Action to review 24VAC30-200 to potentially amend any overly burdensome requirements, remove any obsolete information, and provide more clarity with streamlined regulatory requirements. The CTB conducted a review of its regulations in accordance with Governor Youngkin’s Executive Order 19 (EO 19). As a result of this review, the CTB identified several areas for streamlining within this regulation. The CTB approved the proposed amendments on [REDACTED], 2024.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

VDOT has the authority to promulgate this regulation pursuant to § 33.2-1221(B)(3) of the Code of Virginia, which states in part, “[t]he Commissioner of Highways shall promulgate such regulations as he deems necessary or desirable to carry out the provisions of this section.” The CTB originally adopted this regulation in 1991 and amended the regulation in 1998, 2007, 2011, and 2014.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The proposed regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Several changes will add administrative updates and bring the text in line with current practice.

Substantive amendments include removing the Documents Incorporated by Reference (DIBR) from the regulation and allowing for cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs. The CTB proposes to remove the DIBR and instead reference those documents in the terms of the land use permit secured by regulated entities. These documents include standards and specifications with which regulated entities are required to comply. This change will ensure the most

relevant versions of the documents are being followed by regulated parties, more narrowly tailor requirements to the specific type of permit and associated activity, and ease burdens on permittees in determining applicability.

The CTB also proposes to amend the regulation to allow cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs, by changing the limitation for cutting or pruning vegetation from vegetation with a trunk base diameter or limb diameter of 2 inches to vegetation with a trunk base diameter of less than six inches and limbs up to four inches in diameter. As a result of the periodic review conducted on this regulation in 2019, it was determined that the inconsistency between the requirements for cutting and pruning in front of businesses and outdoor advertising made enforcement inconsistent. VDOT has also determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and impractical in many cases due to the rate of vegetation growth. The CTB approved amendments to resolve the inconsistency and pursued these changes via the fast-track regulatory process. In 2022, the fast-track process was abandoned due to the number of objections received. The CTB contends that the amendments to allow the consistent treatment and regulation of both outdoor advertising signs and businesses are still necessary, and those amendments are included in this proposal.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

In addition to administrative updates, eliminating redundancy, adding clarifying language, and bringing the text in line with current practice, the CTB proposes to remove the DIBR from this regulation and instead include the relevant documents in the terms of the land use permit. To ensure consistent treatment and regulation of both outdoor advertising signs and businesses, application of the restriction on cutting vegetation in front of businesses will be amended from trunks two inches in diameter to trunks six inches in diameter, and application of the restriction on pruning vegetation in front of businesses will be amended from limbs two inches in diameter to limbs four inches in diameter.

Other changes include changing the definition of “Unsightly” to “Undesirable” and including invasive species and trees that pose a safety threat in the definition, removing the protection for non-native flowering trees, eliminating language on creating a picture frame effect around signs, removing the requirement for the submission of 8” x 10” glossy photographs with permit applications, and eliminating “chipped and beneficially used” verbiage to discourage leaving wood chips on site.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary benefit to both the public and the CTB and VDOT of the removal of the DIBR section is improved clarity for regulated entities, ensuring they are aware of the specific documents relevant to them by including the documents in the terms of the land use permit. This change will also ensure the most updated version of each document is clearly specified for compliance. There are no disadvantages to this

proposed change, as the permit forms will be updated to correspond with this change and all permit documents are publicly available on VDOT’s website.

The inconsistency between the requirements for cutting and pruning in front of businesses and in front of outdoor advertising has made enforcement of this regulation inconsistent. VDOT has determined through surveying VDOT roadside managers that the less than two inch in diameter limitation for cutting and pruning vegetation in front of businesses is too restrictive and is impractical in many cases due to the rate of vegetation growth. The proposed amendments will relax restrictions on vegetation control in front of businesses, allowing such businesses to be more visible from highways, while maintaining the requirements for replacing cut vegetation under a landscape plan. Since replacement vegetation is required for trees that are removed, no negative impact to the environment or landscape is anticipated from these amendments.

The other proposed changes to the regulation benefit the public through removing redundant or outdated language or providing additional clarity and are not anticipated to present a disadvantage to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected by the regulatory changes.

Localities Particularly Affected

Cities or towns where the relevant public right-of-way is within the jurisdictional limits of the city or town on a highway or street not within the jurisdiction of the Commissioner of Highways are delegated authority for activities pertaining to making billboards and business locations in those localities more visible and could see an increase in applications from businesses under the proposed amendments.

Other Entities Particularly Affected

Businesses visible from highways and entities with outdoor advertising along highways for which vegetation control operations and subsequent maintenance activities are required are affected by the proposed changes.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.</p>	<p>There are no anticipated costs, savings, fees, or revenues for VDOT resulting from the regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no anticipated costs, savings, fees, or revenues for other state agencies resulting from this regulatory action.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>Cities or towns where the relevant public right-of-way is within the jurisdictional limits of the city or town on a highway or street not within the jurisdiction of the Commissioner of Highways are delegated authority for activities pertaining to making billboards and business locations in those localities more visible and could see an increase in applications from businesses under the proposed amendments. These localities are authorized to collect fees for permit applications. Assuming permit fees are sufficient to cover administrative costs, no adverse impacts are expected.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Businesses visible from highways and entities with outdoor advertising along highways for which vegetation control operations and subsequent maintenance activities are required are affected by the proposed changes.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The number of businesses that could be affected is unknown at this time.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>The cost to businesses of replacement vegetation would rise due to the larger size of vegetation allowed to be cut down under the regulatory changes, but such costs are unknown at this time.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The benefits of the proposed changes are improved clarity and reduced redundancy of the regulatory text. Businesses would also benefit from increased visibility under the proposed changes.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

This analysis is reported in Tables 1b and 1c on the ORM Economic Impact form.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

The CTB/VDOT propose to remove the DIBR from the regulation and instead reference those documents in the terms of the land use permit secured by regulated entities. This will ease the burden on regulated entities, including small businesses, by more narrowly tailoring requirements to the specific type of permit and associated activity and making it easier for permittees to determine applicability of the documents.

Otherwise, no alternative regulatory methods are applicable, nor were alternative regulatory methods considered.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The proposed changes to the Vegetation Control Regulations are largely intended to reduce redundancy and improve clarity of the regulation in alignment with the criteria set out in EO 19 and the ORM procedures. The regulation allows for the protection of public health, safety, and welfare and continues to be needed. The regulation does not overlap or conflict with state or federal law or regulation, and it is not overly complex. The regulation does not negatively affect small businesses. The regulation was last reviewed in 2019. In 2022, objections were received during the fast-track regulatory process to implement the amendments to allow cutting and pruning in front of businesses to be consistent with that for outdoor advertising signs and that proposed fast-track action was withdrawn.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The CTB is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency’s regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Jo Anne Maxwell, Agency Regulatory Coordinator, 1401 E. Broad St. Richmond, VA 23219, telephone (804) 786-1830, fax (804) 225-4700, JoAnne.Maxwell@VDOT.Virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-	New chapter-section	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

section number	number, if applicable		
200-10	N/A	<p>Section 10 defines the words and terms used in the regulation.</p>	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>The definitions of “Daylighting” of “Federal-aid primary highway” will be removed as they are no longer used in or relevant for the regulation.</p> <p>“Inspector” and “Local beautification project” will be amended to clarify and streamline the definitions.</p> <p>“Unightly” will be updated to “Undesirable” to clarify the qualities of a tree included in this category. Benefits of this change include the addition of invasive species and trees which pose a safety risk, which will more easily allow for these types of trees to be removed.</p>
200-20	N/A	<p>This section describes the requirements for permits; cutting, pruning, and tree removal; replacement vegetation; and violations.</p> <p>Currently, subsection B states that all cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches, and no pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter. This subsection also states, “Dogwood or other small flowering trees on the site shall not be removed.”</p>	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>In subsection B, the CTB proposes to remove the distinction between cutting related to outdoor advertising structures and that related to businesses. This will make the regulation more equitable while continuing to protect public health, safety, and welfare. “Unightly” will also be updated to “undesirable” to correspond with the changes in section 10.</p> <p>The amendments would preserve the prohibition on removing native flowering trees but remove the protection for other flowering trees. This change is due to the high frequency of encounters with flowering trees included in the Department of Conservation and</p>

		<p>Subsection C currently requires that every effort shall be made to form a picture frame when daylighting signs and specifies how the picture frame will be achieved.</p>	<p>Recreation’s Virginia Invasive Plant Species List.</p> <p>The CTB proposes to remove subsection C regarding creating a picture frame effect around signs as the current terminology has proven misleading for the regulated community and may result in unintended negative outcomes in which the pruning creates hard edges in a rectangular shape. This leads to irregular and improper pruning cuts/techniques that may have detrimental impacts to the tree.</p> <p>Formatting updates will also be made.</p>
200-30	N/A	<p>This section describes the special provisions relating to permits, notification requirements, treatment of trees or other plants not covered by this chapter, and access and work requirements.</p> <p>Permittees are required to “attach two each 8” x 10” color glossy photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.”</p> <p>The first paragraph of subsection C requires that, “No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.” This subsection also requires wood to be chipped and beneficially used or removed and disposed of.</p>	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>The amendments would remove the requirement that a permittee attach 8” x 10” color glossy photographs with their application. This change will allow for electronic submission of photographs.</p> <p>In subsection C, the amendments would remove the redundant first paragraph and “chipped and beneficially used or” from the third paragraph. Presently, the inclusion of “chipped and beneficially used” encourages leaving of the chips on site, which may damage turf or vegetation.</p> <p>Formatting updates will also be made.</p>
200-40	N/A	<p>This section contains the DIBR for the regulation.</p>	<p>This section will be repealed and the relevant documents incorporated within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed by regulated parties and remove confusion</p>

			as to the applicability of specific documents.
FORMS	N/A	This section contains the land use permit form relevant to vegetation control.	The form included in this section will be updated to reflect the removal of the DIBR from the regulation and the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current emergency requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage