

The following comments were made at the Public Hearings or during the public comment period (July 9 through September 9, 2007). The agency responses are reflected in the final version of the Land Use Permit Regulations (24VAC30-151). Editorial changes are not addressed in this document.

VDOT Asset Management Division received 53 comments related to the proposed Land Use Permit Manual (24VAC-30-151).

Most comments suggested editorial changes or clarifications, and most were incorporated.

All comments were reviewed and addressed based on discussions with the advisory committee. All comments and responses are available for review at the following link:
<http://www.virginiadot.org/business/bu-landUsePermits.asp>

Commenter	Comments	Agency response
Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association	<u>24 VAC 30-151-330.</u> Commenters objected to the following requirement: "Overhead installations crossing existing or proposed highways shall be placed with at least 21 feet of vertical clearance. The residency administrator may approve vertical clearance less than 21 feet; however, no crossing shall be permitted with less than 18 feet of vertical clearance."	The requirement was modified to provide that new overhead installations crossing existing or proposed highways (primary and secondary) shall be placed with at least 18 feet of vertical clearance. The vertical clearance for all parallel overhead installations within non-limited access right-of-way shall be in compliance with current standards as required by the National Electric Safety Code.
Columbia Gas	<u>24 VAC 30-151-370. Encasements.</u> Columbia Gas requested the possibility of allowing installation of un-encased gas lines under the state highway system and to provide guidance to regulated entities with respect to when such installations would be appropriate.	VDOT will permit un-encasement on all Jointless steel pipelines. Supporting data must be submitted with the permit request verifying that the installation meets or exceed all federal requirements for un-encased road crossings and that the pipe will carry the anticipated load generated by the highway's traffic.
Dominion Virginia Power, Verizon	<u>24 VAC 30-151-30. Permits and agreements.</u> Commenters requested that Residency-wide Permits be replaced with district-wide permits.	Changed to District-wide Permits.
Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association	<u>24 VAC 30-151-30. Permits and agreements.</u> Commenters requested a clarification of the requirement that installing electrical lines that exceed 34.5 KV, requires a separate permit.	Installing electrical lines that exceed 34.5 KV, will require the issuance of a separate permit.

	<p><u>24 VAC 30-151-340. Non-limited access highways - Underground installations.</u> Commenters requested removal of requirements that a utility not be attached to a bridge or other structure unless the utility owners can demonstrate that the installation and maintenance methods will not require access from the roadway or interfere with roadway traffic and that the attachment method be approved by VDOT.</p>	<p>This requirement was deemed necessary to public safety and to the proper maintenance of bridges and structures and has therefore been retained in the final regulation.</p>
	<p><u>24 VAC 30-151-710. Fees.</u> Commenter objected to the provision in A.3 that the fee will be doubled whenever the size of the utility facility to be installed in a longitudinal occupancy requires the use, including separation clearances, of more than a six-foot width of the right-of-way.</p> <p>Commenter was concerned that elimination of the Statewide Blanket permit would force companies to apply for 45 Residency-wide permits, resulting in higher costs for both the companies and VDOT.</p>	<p>Section A.3. was removed.</p> <p>Residency-wide permits have been replaced with district-wide permits, and the central office permit manager has been given authority to exercise discretion in combining requests for multi-jurisdictional district-wide permits. The blanket surveying permit has been reinstated in the regulation.</p>
<p>Virginia Cable Telecommunications Association</p>	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u> Commenter objects to the requirement that the applicant submit site plans or sketches for proposed installations within the right-of-way to VDOT for review along with studies necessary for approval.</p> <p><u>24VAC30-151-310. Limited access highways – aboveground installations. (Vertical Clearance)</u></p> <p><u>24VAC30-151-330. Nonlimited access highways; aboveground</u></p>	<p>These requirements are necessary to ensure the proper installation, location, compliances with approved design and safety of the traveling public.</p> <p>The requirement in 24VAC30-151-310 exists in the current regulations and will not be changed.</p> <p>The requirement in 24VAC30-151-330 was modified to provide that new overhead installations</p>

	<p><i>installations.</i></p> <p>VCTA objects to the requirement that all overhead installations be places with at least 21 feet of vertical clearance.</p>	<p>crossing existing or proposed highways shall be placed with at least 18 feet of vertical clearance. The vertical clearance for all parallel overhead installations within non-limited access right-of-way shall be in compliance with current standards as required by the National Electric Safety Code.</p>
	<p><u>24 VAC 30-151-30. Permits and agreements.</u></p> <p>Commenter objects to the requirement that a permit agreement be established for any new longitudinal occupancy of the limited access right-of-way, including any new perpendicular crossing of the limited access right-of-way or any new communication tower or small site facilities installed within the right-of-way.</p>	<p>A separate permit is required to cross and/or work within the limited access right of way. An agreement is required to install longitudinal lines and perpendicular crossings and to place towers with the limited access and right of way.</p>
	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u></p> <p>Commenter objected to the limitation of liability clause in section G.</p> <p><u>24 VAC 30-151-90. Hours and days work authorized; holiday schedule.</u></p> <p>Commenter requested that the normal hours for work authorized under VDOT permit be expanded to accommodate an 8 hour work schedule and that the span of time within which the work may be performed be expanded for greater flexibility of utility scheduling.</p>	<p>VDOT removed the following from section G:</p> <p>“VDOT will not be responsible for damage to the facility placed under permit as a result of future maintenance or construction activities performed by VDOT.”</p> <p>Normal work hours under the authority of a permit remain from 9:00 a.m. to 3:30 p.m. Monday through Friday. The regulation has been amended to allow the residency administrator to authorize work on Saturday or Sunday for single use permits and to allow the central office permit manager to authorize work on Saturday and/or Sunday for state-wide and district-wide permits. All are subject to traffic volume and road conditions.</p>
	<p><u>24 VAC 30-151-750 Land use permit application fee and additive fees, communication tower site fees, annual adjustments.</u></p> <p>Commenter objects to the authority of the Commonwealth Transportation Commissioner to adjust the permit application fee and additive fees by up to 25% annually.</p>	<p>This section has been deleted.</p>

	<p><u>24 VAC 30-151-750.</u> <i>Land use permit application fee and additive fees, communication tower site fees, annual adjustments.</i> Commenter objects to the authority of the Commonwealth Transportation Commissioner to adjust the permit application fee and additive fees by up to 25% annually.</p>	<p>This section has been deleted.</p>
	<p><u>24 VAC 30-151-740.</u> <i>Exceptions and provisions to the payment of fees and compensation.</i> The VCTA strongly believes that cable operators should be afforded the same fee exemptions as telecommunications providers.</p>	<p>Pursuant to §56-462 and §56-468.1 of the Code of Virginia, a 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. The certificated provider of telecommunication service is exempt from the permit fee as long as they are registered with the State Corporation Commission as a certificated provider of telecommunication service.</p>
	<p><u>24 VAC 30-151-730.</u> <i>Accommodation fees.</i> Commenter objected to the Limited Access Longitudinal Installation annual use payment of \$250 per mile.</p>	<p>This has been deleted.</p>
<p>Virginia Telecommunications Industry Association</p>	<p><u>24 VAC 30-151-30.</u> <i>Permits and agreements.</i> Commenter requested less stringent requirements for utilities installing and maintaining service connections on state right-of-way.</p>	<p>The permit type for work by utilities was changed from a residency-wide to a district-wide permit. Provisions were added to address parallel service installation.</p>

<p>Dewberry & Davis, L.L.C, Virginia Association of Surveyors, Inc., Koontz-Bryant, P.C Trend Land Surveying, Dominion Surveyors, Inc., Tri-Tek Engineering, Jordan Consulting Engineering</p>	<p><u>24 VAC 30-151-30. Permits and agreements.</u> 1. A land surveyor begins a project by establishing aerial panels that could be painted on the pavement or as plastic panels in the grass. Could this be interpreted as disturbing the pavement or shoulders? Could painting and placing pin flags be interpreted as disturbing the pavement or shoulders? 2. Surveyors may be required to delay traffic for few moments to mark and/or survey the existing utilities. Surveyor crew may need to open a manhole to acquire an as built elevation on the inverts of the structure. Should this require a single use permit?</p>	<p>1. Painting on the pavement or as plastic panels in the grass and placing flags are not interpreted to be disturbing to the pavement or shoulders. 2. A single use permit is required when working in the travel lanes and/or stopping and delaying traffic movements. This is essential to ensure the safety of the traveling public.</p>
	<p><u>24 VAC 30-151-90. Hours and days work authorized; holiday schedule.</u> Commenters objected to restrictions on work hours and days.</p> <p><u>24 VAC 30-151-30. Permits and agreements.</u> Trimming limbs and brush in surveying operations is common practice. In order to perform work surveyors must recover the property corners and right of way monuments. This may require cutting back the brush and digging to recover the monuments as required by the regulation of the Commonwealth. Does this require an additional permit?</p>	<p>Normal work hours under the authority of a permit remain from 9:00 a.m. to 3:30 p.m. Monday through Friday. The residency administrator may authorize work on Saturday and/or Sunday for single use permits and the central office permit manager may authorize work on Saturday or Sunday on district-wide permits upon request from the blanket permit holder.</p> <p>Trimming limbs requires coordination with Roadside Manager at the district level and may not require the surveyor to obtain an additional permit.</p>
	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u> VTIA opposes the requirement to maintain right of way restoration for a period of three years, versus the more widely accepted and enforced restoration warranty</p>	<p>This section has been amended to provide criteria for the consideration of granting a one-year restoration warranty period.</p>

	period of one year.	
Phillip Whitlow	<u>24 VAC 30-151-30. Permits and agreements.</u> Elimination of blanket permits for temporary logging entrances creates more bureaucracy, denies landowners access to public highways for harvesting timber, and amounts to another tax.	The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.
Ben Cole (logger)	<u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating the blanket permit program in favor of single temporary logging entrance permits would be expensive, time consuming, and impractical for industry and VDOT. His business uses 100 - 150 entrances, which would require \$10,000 - \$15,000 per year in entrance permits. All logging entrances are temporary, lasting a few days to a few weeks. Construction is also temporary, so why is logging being singled out by VDOT?	The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.
Mark Rogers	<u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating blanket entrance permits in favor of single temporary permits is unnecessary, expensive, time consuming, and unfair to industry.	The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.
Goodman Lumber Company, Inc.	<u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating blanket permits for logging is an administrative burden and forces loggers to wait on state inspections every time they have to move to a new location to do work. The new fees amount to a tax.	The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.
Sammy Gray, Virginia American Water	<u>24 VAC 30-151-10. Definitions.</u> <u>24 VAC 30-151-340.</u> There is no basis for distinguishing between private and public utilities.	The final regulation continues to define classes of utilities; however, section 340 combined the two separate provisions into one provision covering both public and private utilities.

	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Applying for a single-use permit every time required maintenance would disrupt a public road could adversely affect public health and safety by preventing an immediate response. Permit fees increase costs, which will ultimately be passed on to the customer.</p> <p><u>24 VAC 30-151-340.</u> A shared resource arrangement is not adequately defined.</p> <p><u>24 VAC 30-151-720. Surety.</u> <u>24 VAC 30-151-730. Accommodation fees.</u> Surety requirements and accommodation fees increase costs, which will ultimately be passed on to the customer.</p>	<p>The requirement is for a verbal authorization, which should not prevent an immediate response. The application for a single-use permit is not required to be made until after the emergency situation has been resolved. Fees are necessary to cover VDOT's administrative costs in ensuring safety while providing regulated entities with the privilege of performing work on state-owned property.</p> <p>VDOT believes that this term is adequately defined.</p> <p>Surety requirements are intended to ensure that any damage caused by a permittee is repaired at the expense of the permittee, rather than at the expense of the taxpayer. Fees are necessary to cover VDOT's administrative costs in ensuring safety while providing regulated entities with the privilege of performing work on state-owned property.</p>
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