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Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) Chapter citation(s)	24 VAC 30-121
VAC Chapter title(s)	Comprehensive Roadside Management Program
Action title	Chapter 121 Regulatory Reform and Periodic Review
Date this document prepared	January 6, 2025

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 Comprehensive Roadside Management Program established by 24VAC30-121 enables private businesses, civic organizations, communities, individuals and local governments to improve the appearance and safety of the state-maintained right-of-way by participating in project development, establishment, and maintenance of landscaping activities within the right-of-way. VDOT has undertaken a comprehensive review of this regulation. 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.

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

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On January 6, 2025, VDOT approved final amendments to 24VAC30-121, Comprehensive Roadside Management Program.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

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 implement a comprehensive roadside management program pursuant to § 33.2-265 of the Code of Virginia.

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 regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. The regulation addresses opportunities for participation by individuals, communities, and local governments; safety; landscape materials; services; funding; recognition; and appropriate signing. Under the regulation, acknowledgement signs must comply with safety requirements and the criteria for placement for specific highway systems and access type. As such, the Comprehensive Roadside Management Program regulation remains necessary for the protection of public health, safety, and welfare.

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.

The proposed amendments will achieve administrative updates, eliminate redundancy, add clarifying language, and bring the text in line with current practice.

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 proposed changes to the regulation benefit the public through removing redundant or outdated language and providing clarity as to current VDOT practice and are not anticipated to present a disadvantage to the public or the Commonwealth.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, 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 by the regulatory changes.

Other Entities Particularly Affected

No other entities are particularly affected by the regulatory changes.

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.

No public comments were received during the public comment period following the publication of the previous stage.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

No changes have been made to the text since the previous stage was published in the Virginia Register of Regulations.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
121-10	N/A	Section 10 provides the purpose for the regulation.	Amendments will be made to this section to streamline the regulation and eliminate unnecessary text.
121-20	N/A	This section outlines entities eligible for participation and the requirements for contributions.	The restriction that no acknowledgment signs installed pursuant to the program shall remain in place for more than 10 years is proposed to be removed to eliminate inconsistency within the regulation. Other streamlining and clarifying amendments will be made to this section.

121-30	N/A	This section describes the application requirements, including the jurisdictional limitations.	<p>Limited access highways will be excepted from the provision that a local government may apply for a jurisdiction-wide permit to cover all proposed activities occurring within that local government's jurisdictional boundaries on the right-of-way. The local government will also be required to notify the official local VDOT office (residency) prior to the installation of any landscaping under a jurisdiction-wide permit. These changes will ensure consistency with the requirements in 24VAC30-151 regarding activities in limited access right-of-way, as district-wide permits do not apply to limited access highways and maintenance activities within limited access right-of-way require separate permits or authorization.</p> <p>Other streamlining and clarifying amendments will be made to this section.</p>
121-40	N/A	Section 40 requires that projects comply with the Land Use Permit Regulations and the general, site, and design considerations specified in this section.	<p>Under the amendments, the permittee will be required to maintain any permitted areas 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>The amendments would also allow the project design to include pruning or cutting within highway rights-of-way of vegetation with trunk base diameter no greater than six inches, instead of the four inches currently allowed. This change is to align the regulatory text with similar proposed amendments to 24VAC30-200, Vegetation Control Regulations on State Rights-of-Way.</p> <p>Other streamlining and clarifying amendments will be made to this section.</p>
FORMS	N/A	This section contains the land use permit form relevant to the Comprehensive Roadside Management Program.	This form will be updated.