



Virginia
Regulatory
Town Hall

Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Virginia Department of Transportation
VAC Chapter Number:	VAC 24-30-71-10 et seq.
Regulation Title:	Minimum Standards of Entrances to State Highways
Action Title:	Amendment to Regulation Associated with Periodic Review
Date:	August 28, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation sets forth the requirements approved by the Commonwealth Transportation Board, and implemented by VDOT, regarding the control of the use of highway rights-of-way when it is necessary to provide access to commercial, private, and industrial properties abutting state roads.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or

discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

State source of legal authority:

In general terms, § 33.1-12(3) (see below) vests the Commonwealth Transportation Board with the powers and duties to regulate traffic operations on systems of state highways not in conflict with the laws of this Commonwealth:

The Commonwealth Transportation Board shall be vested with the following powers and shall have the following duties:

(3) Traffic regulations. - To make rules and regulations, from time to time, not in conflict with the laws of this Commonwealth, for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same.

Specific statutory authority for promulgating the existing regulation is set forth in §§ 33.1-197 and 33-1-198 (see below):

§ 33.1-197. Connections over shoulders of highways for intersecting private roads.

The Commonwealth Transportation Commissioner shall permit, at places where private roads leading to and from private homes intersect improved highways, suitable connections from such points of intersection, over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof, so as to provide for the users of such private roads safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways.

§ 33.1-198. Connections over shoulders of highways for intersecting commercial establishment entrances.

The Commonwealth Transportation Commissioner shall permit, at places where commercial establishment entrances are desired to intersect improved highways, suitable connections from such points of intersection over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof, so as to provide for the users of such entrances safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways; provided, however, that any person desiring such an entrance shall first be required to obtain a permit therefor from the Commonwealth Transportation Commissioner and shall provide the entrance at his expense and construct or have constructed the same, including such safety structures as are required by the Commonwealth Transportation Commissioner, pursuant to "Minimum Standards of Entrances to State Highways" on file in the Department of Transportation, Richmond, Virginia, and in the office of the Highway District Engineer and Resident Engineers.

All commercial entrances whether or not constructed under this section shall be maintained by the owner of the premises at all times in a manner satisfactory to the Commonwealth Transportation Commissioner.

Any person violating the provisions of this section shall be guilty of a mis demeanor, and, upon conviction, shall be fined not less than \$5 nor more than \$100 for each offense. Following a

conviction and fifteen days for correction, each day during which the violation continues shall constitute a separate and distinct offense and be punishable as such. Such person shall be civilly liable to the Commonwealth for actual damage sustained by the Commonwealth by reason of his wrongful act.

Given the general authority granted the CTB to make regulations, and the specific authority granted the Commissioner concerning the issuance of permits, as well as the specific reference to the regulation by title, the General Assembly clearly intended that VDOT have broad control over the types of entrances installed under these statutes. Providing safe ingress and egress for entrance users is a responsibility of the Commonwealth of Virginia and the Department of Transportation. The granting of commercial entrance installations is based on user types, traffic volumes, horizontal and vertical alignments and sight distances, and posted or the 85th percentile operating speeds. VDOT must be able to review permits applied for under this regulation to ensure that deviations are justified from safety and infrastructure integrity standpoints, and the variables mentioned above are taken into account. Text of all statutes cited can also be accessed at the following website:

<http://leg1.state.va.us/lis.htm>

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

VDOT received comments from Prince William County officials as a result of the Notice of Periodic Review published in *The Virginia Register*. Comments generally addressed items such as definitions, suggestions for rewording text to improve clarity, etc. See table below for specific comments and VDOT’s response. The Traffic Engineering Division intends to use the expertise of an informal group comprised of in-house engineering staff to develop a comprehensive list of amendments to the regulation.

TABLE 1 – Public Comments

Prince William County Comment	VDOT Response
1. Add “State Highway Access Management” code policies to regulation	Subject is more appropriate for consideration by the General Assembly; if enacted as law, they can be added to regulation through APA exempt action; Access Management is presently being addressed by an on call consultant through presentations to Resident Engineers and Localities. This suggestion may be considered for incorporation when and if the American Association of State Highway & Transportation Officials’ (AASHTO’s) newly

Prince William County Comment	VDOT Response
	revised sight distance requirements are adopted by VDOT.
2. Provide definition for “crossovers” or “median openings” in 24 VAC 30-71-10	VDOT concurs; will implement
3. Add clarifying language (“traffic circle or roundabouts”) (intersection areas <u>functional intersection areas</u>) in 24 VAC 30-71-70	VDOT concurs; will implement
4. Clarify last sentence of third paragraph in 24 VAC 30-71-80 concerning mountable curbs	VDOT concurs; will implement
5. Rewrite first sentence of last paragraph in 24 VAC 30-71-90 (Pipe ends <u>of culverts</u> shall be reviewed . . . to minimize any hazard the pipe ends <u>or structures</u> may present to an out-of-control vehicle.”	VDOT concurs; will implement
6. In 24 VAC 30-71-100, add text to title (“Crossover <u>or Median Openings</u> ”); add phrase “ <u>and/or traffic signal system</u> ” in last paragraph after phrase “including turn lanes”	VDOT concurs with all but use of “and/or”; Registrar’s <i>Style Manual</i> discourages use of term; VDOT will implement comments with Registrar’s recommended usage
7. Revise final sentence in 24 VAC 30-71-120 as follows: “ <u>The current standard drawing for depressed curb ramp as shown in the current Road and Bridge Standards shall be utilized in the design.</u> ”	VDOT concurs with all but use of “current”; Registrar’s <i>Style Manual</i> requires effective date of documents incorporated by reference; VDOT will implement comments with Registrar’s recommended usage
<p>8. In 24 VAC 30-71-130, make the following changes:</p> <ul style="list-style-type: none"> ● Change words in first sentence of the first paragraph from “entering or exiting the entrance” to “<u>traveling the through lanes of the roadway.</u>” ● Add the word “current” to VDOT’s Planting Guidelines Manual. 	<ul style="list-style-type: none"> ● VDOT concurs; will implement ● Registrar’s <i>Style Manual</i> requires effective date of documents incorporated by reference; VDOT cannot honor request without violating Registrar’s usage rules

Prince William County Comment	VDOT Response
<ul style="list-style-type: none"> Correct typographical error (“ft.”) under Two Lane, Three Lane, and Four Lane Headings 	<ul style="list-style-type: none"> Typo appears in Internet version of regulation as listed in the <i>Va. Adm. Code</i>; table is correct in VDOT print edition of regulation; no VDOT action necessary.
<p>9. Add following to text in 24 VAC 30-71-140: “The department is responsible for the maintenance . . . within the normal shoulder <u>or within the right-of-way where the department has determined that such maintenance will assure a safer highway facility for the traveling public as shown in Figure 1.</u>”</p>	<p>VDOT’s Maintenance Division believes this revision would overburden VDOT with having to maintain an excessive length of entrance for a private residence in areas where wider rights of way exist.</p>
<p>10. In 24 VAC 30-71-150, first sentence of the last paragraph should be revised to replace the final word “installation” with “traffic signal system.”</p>	<p>VDOT concurs; will implement</p>
<p>11. Substitute word “current” for references to VDOT Road & Bridge Standards when it appears in the regulation</p>	<p>Registrar’s <i>Style Manual</i> requires effective date of documents incorporated by reference; VDOT cannot honor request without violating Registrar’s usage rules</p>

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

This regulation has the following goals:

1. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.
2. Is the regulation written clearly and understandably?

Goal 1: VDOT is obligated to ensure that the health and safety of VDOT and non-VDOT workers, pedestrians and motorists using the highways of the Commonwealth are preserved. The

regulation provides a framework whereby uniform standards are established to control the use of highway rights-of-way when it is necessary to provide access to commercial, private, and industrial properties abutting state roads. These controls not only protect through traffic from indiscriminate interferences; they also promote safe and convenient connections to public highways.

Permits are required when work is performed on or crossing any right-of-way under VDOT's jurisdiction. Permits are also required when modifications are needed for an existing entrance due to a change in the land use, or some other change that causes higher volumes of use. These requirements allow VDOT to ensure that work is performed with due regard to worker and motorist safety, as well as sound civil engineering principles. Therefore, both safety and preservation of the highway infrastructure are maintained.

Goal 2: The regulation currently includes a section defining relevant terms, provides graphic depictions of various types of commercial and private entrances, and specifies the standards and guidelines to be followed in constructing these types of facilities. Although VDOT believes the regulation is written clearly and understandably, it recognizes that improvements in clarity are always possible. This goal will be addressed through the changes to the regulation suggested by Prince William County, which will improve its readability and usefulness. VDOT's own internal process of review may also provide revisions that promote clarity and understandability.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

There is no substitute for a regulation that addresses the subject. State statutes referenced previously (§§ 33.1-12(3), 33.1-197 and 33.1-198) authorize the CTB and the Commissioner with the ability to make regulations and determine circumstances under which permits may be granted, respectively. In fact, the regulation itself is referenced by name in § 33.1-198, indicating that the General Assembly recognized the need for a regulation addressing controls at commercial and private entrances. Therefore, VDOT has determined that a regulation is the least burdensome way to achieve its stated purpose.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

VDOT recommends that the *Minimum Standards of Entrances to State Highways* be amended, due to the need to update document references, revise entrance illustrations, and revise other parts of the regulation based on public comment to promote clarity and ease of understanding.

Substance

Please detail any changes that would be implemented.

In addition to the public comments VDOT plans to incorporate into the regulation that are addressed in Table 1, based on the results of its review, the Traffic Engineering Division anticipates the following revisions:

- Revising 24 VAC 30-71-160 to include a statement that the commercial entrance design illustrations are guidelines that may be reduced or modified is approved by the district administrator or engineer;
- Notes will be added to two illustrations 24 VAC 30-71-160 dealing with private entrance installations to emphasize that the details shown may be modified or eliminated if the district administrator or engineer determine that the entrance will function safely as modified;
- Revising two definitions in 24 VAC 30-71-10 (“private entrance” and “private subdivision road or street”) to define them as shown in the revised *Land Use Permit Manual* (24 VAC 30-150-10), which is being replaced through the APA with a completely rewritten regulation; this action will promote consistent treatment of terms between the two regulations;
- Updating text or tables related to documents incorporated by reference (e.g., *A Policy on Geometric Standards of Highways and Streets*, *VDOT’s Road Design Manual*, etc.).

If other revisions are necessary due to input from VDOT engineers in other divisions or the district, or external parties during the APA amendment process, VDOT will address them at the appropriate step in the process.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation has no effect on the family or family stability, nor does it affect any of the factors listed above.