



Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30 -73
Regulation title	Access Management Regulations: Minor Arterials, Collectors, and Local Streets
Action title	Promulgation of APA-Subject Regulation and Related Standards to Satisfy Legislative Mandate
Date this document prepared	May 28, 2009; revised July 27, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

Access management is the programmatic control of the location, spacing, and design of entrances, median openings, intersections, traffic signals, and interchanges on highways according to the highway's functional classification. Highways are classified as a principal arterial, minor arterial, collector, or local based on their intended function. The Access Management Regulations: Minor Arterials, Collectors, and Local Streets, along with related access management design standards for entrances and intersections, will be used to manage access to state highways with these functional classifications in order to improve their traffic carrying capacity and reduce traffic crashes. (Access management regulations for principal arterials are set forth in Access Management Regulations: Principal Arterials (24 VAC 30-72).)

Statement of final agency action

Please 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 May 13, 2009, the Commonwealth Transportation Commissioner or his designee approved the Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24 VAC 30-73). Pursuant to the requirements of Chapters 454 and 274 of the Acts of Assembly of 2008, the effective date of the regulation shall be October 1, 2009.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Chapters 863 and 928 of the Acts of Assembly of 2007 (HB 2228 and SB 1312, respectively) amended §§ 33.1-13, 33.1-198 and 33.1-199 of the *Code of Virginia*, and added § 33.1-198.1 to the *Code of Virginia*. The legislation requires the Commonwealth Transportation Commissioner (Commissioner) to develop comprehensive highway access management regulations and standards.

In response to this directive, regulations ("Access Management Regulations (12/07)") were drafted, along with related access management design standards for entrances and intersections. The regulations and design standards were to be used to manage the location, number, and spacing and design of entrances and intersections, including median openings, turn lanes, traffic signals, and interchanges on the systems of state highways.

Although initial promulgation of the regulations was exempt from the Administrative Process Act (APA) (§ 2.2-4000 et seq. of the *Code of Virginia*), the legislation directed the Commissioner to solicit and consider public comment in their development. The Commissioner was further directed by the legislation to publish the regulations no later than December 31, 2007, to be effective July 1, 2008.

These new access management regulations and design standards were to replace and supersede the Minimum Standards of Entrances to State Highways (24 VAC 30-71) and Part IV, Entrance Permits, of the Land Use Permit Manual (24 VAC 30-150).

The mandate to develop and promulgate access management regulations is new, but the regulation of entrances is not. The Highway Commission, predecessor to the Commonwealth Transportation Board, originally established minimum standards for entrances in 1946. Part IV of the Land Use Permit Manual (24 VAC 30-150), along with the Minimum Standards of Entrances to State Highways (24 VAC 30-71), served as the basis for the Access Management Regulations (12/07) and the access management design standards for entrances and intersections.

During the 2008 General Assembly session, SB 370 and HB 1572 were enacted to provide that the Access Management Regulations (12/07) be promulgated in phases. The first phase (initial promulgation of regulations applicable to highways with a functional classification as a principal arterial) was exempt from the APA, and the regulations went into effect July 1, 2008. Subsequent phases (promulgation of regulations applicable to highways classified as a minor arterials, collectors, and local streets) are subject to the APA and will go into effect October 1, 2009. The legislation provided that the general notice

concerning proposed Access Management Regulations published in *The Virginia Register* on October 15, 2007, shall be considered a valid Notice of Intended Regulatory Action pursuant to the APA for promulgation of this second phase.

To accommodate the mandate of Chapters 454 (HB 1572) and 274 (SB 370) of the Acts of Assembly of 2008 for promulgation of the first phase of regulations, VDOT revised 24 VAC 30-72-30 of the Access Management Regulations (12/07) and the related access management design standards for entrances and intersections to remove language related to minor arterials, collectors, and local streets. In response to these directives, the Access Management Regulations: Principal Arterials and the related access management design standards for entrances and intersections for principal arterials only apply to highways with a functional classification of principal arterial. The Access Management Regulations: Principal Arterials and the related access management design standards for entrances and intersections for principal arterials went into effect July 1, 2008.

The access management design standards for principal arterials are included as a new Appendix F in the Road Design Manual, which is incorporated by reference in the Access Management Regulations: Principal Arterials. Access management design standards for minor arterials, collectors, and local streets are included as a new Appendix G in the Road Design Manual, which is incorporated by reference in the Access Management Regulations: Minor Arterials, Collectors, and Local Streets. They are available at <http://www.vdot.virginia.gov/accessmgt/>.

To satisfy the second phase of the promulgation of access management regulations in accordance with Chapters 454 and 274 of the Acts of Assembly of 2008, VDOT is publishing the Access Management Regulations: Minor Arterials, Collectors, and Local Streets, which include the related access management design standards to be applicable to highways with a functional classification of minor arterial, collector, and local. These design standards are incorporated by a reference in the regulations to the Road Design Manual, an approach which was used previously when the Access Management Regulations: Principal Arterials were published. These regulations were processed in accordance with the APA and are mandated to go into effect October 1, 2009, after their approval by the Commissioner. The Commonwealth Transportation Board will need to repeal the Minimum Standards of Entrances to State Highways (24 VAC 30-71). Revisions will also be necessary to the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20), since these regulations refer to the Minimum Standards and regulation of entrances.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Section 33.1-198.1 of the *Code of Virginia*, effective July 1, 2008, directs the Commissioner to develop comprehensive highway access management regulations and standards with the purpose to preserve and improve the efficient operation of the systems of state highways through the regulation of access to state highways. The Access Management Regulations: Principal Arterials, Access Management Regulations: Minor Arterials, Collectors, and Local Streets, and related access management design standards for entrances and intersections were prepared in response to this legislative directive.

The legislation declares it to be in the public interest that access management regulations and design standards for entrances and intersections be developed and implemented to enhance the operation and safety of the systems of state highways in order to protect the public health, safety, and general welfare while ensuring that private property is entitled to reasonable access to the systems of state highways. The stated goals for the access management regulations and design standards are:

1. To reduce traffic congestion and impacts to the level of service of highways, leading to reduced fuel consumption and air pollution;
2. To enhance public safety by decreasing traffic crash rates;
3. To support economic development in the Commonwealth by promoting the efficient movement of people and goods;
4. To reduce the need for new highways and road widening by improving the performance of the existing systems of state highways; and
5. To preserve public investment in new highways by maximizing their performance.

Note on Functional Classification

Functional classification means the federal system of classifying groups of highways according to the character of service they are intended to provide and classifications made by the VDOT Commissioner based on the operational characteristics of a highway. Each highway is assigned a functional classification based on the highway’s intended purpose for through traffic movement vs. providing access to property. The functional classification system groups highways into three basic categories identified as (1) arterial, with two subclasses of “principal” and “minor,” with the primary function to provide through-movement of traffic; (2) collector, with the function of supplying a combination of through-movement and access to property; and (3) local, with the primary function of providing access to property.

This regulation applies to minor arterials, collectors, and local streets. Minor arterials interconnect with and augment the principal arterial system which serves traffic of statewide and regional importance. Minor arterials distribute traffic to smaller geographic areas, providing service between and within communities.

Collectors provide land access service and traffic circulation by distributing trips throughout the community to the ultimate destination. Conversely, collectors also collect traffic from local streets in residential neighborhoods and help channel it into the arterial system.

Local streets comprise all facilities that are not collectors or arterials. Local streets serve primarily to provide direct access to abutting land and help disperse traffic.

Maps of the minor arterials, collectors, and local streets by locality will be available at http://www.virginiadot.org/projects/fxn_class/home.asp prior to the effective date of the regulation.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The intent of the Access Management Regulations: Principal Arterials, Access Management Regulations: Minor Arterials, Collectors, and Local Streets, and the related access management design standards for entrances and intersections is to enhance and improve the operation and safety of the systems of state highways. The goals are: (i) to reduce traffic congestion and impacts to the level of service of highways, leading to reduced fuel consumption and air pollution; (ii) to enhance public safety by decreasing traffic crash rates; (iii) to support economic development in the Commonwealth by promoting the efficient

movement of people and goods; (iv) to reduce the need for new highways and road widening by improving the performance of the existing systems of state highways; and (v) to preserve public investment in new highways by maximizing their performance.

Generally, this regulation combines content from the existing Minimum Standards of Entrances to State Highways and Part IV of the Land Use Permit Manual. A Technical Advisory Committee composed of personnel from VDOT’s engineering and planning divisions and the Virginia Transportation Research Council, plus representatives from the VDOT districts and residencies, reviewed access management regulations and standards from many different sources to compile the new regulations and related design standards mandated by the legislature. These sources included access management regulations and standards from other states (such as New Mexico, Maryland, North Carolina, Florida, and Michigan), as well as information from the Transportation Research Board (TRB), the Federal Highway Administration (FHWA), the Institute of Transportation Engineers (ITE), and the American Association of State Highway and Transportation Officials (AASHTO).

In addition, a Policy Committee, comprised of representatives from the Home Builders Association of Virginia, Virginia Association of Commercial Real Estate, Virginia Association of Counties, the Virginia Section of the Institute of Transportation Engineers, and the Piedmont Environmental Council, as well as from VDOT management and the Office of the Secretary of Transportation, evaluated and refined the Access Management Regulations and the access management design standards for all VDOT highways (principal and minor arterials, collectors, and local streets) with input from their organizations.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets contain definitions of pertinent words and terms, information on access management principles, administration of the permit process (how to obtain a permit, making appeals and requesting exceptions), general provisions concerning entrances, private and commercial entrance requirements, entrance design rules, cost responsibilities, commercial entrance access management requirements, coordination with local governments, tenure of entrances, and documents incorporated by reference. The access management design standards for entrances and intersections that are included in the Road Design Manual address the following topics: definitions of pertinent words and terms; access management concepts; functional classifications of state highways; design principles and spacing standards for intersections, entrances, traffic signals and median openings; sight distance standards; turning lane criteria; design principles concerning private and commercial entrances.

Pursuant to Chapters 454 and 274 of the Acts of Assembly of 2008, the Access Management Regulations: Principal Arterials apply to highways with a functional classification of principal arterial, and the Access Management Regulations: Minor Arterials, Collectors, and Local Streets apply to highways with a functional classification of minor arterial, collector, and local.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The implementation of this regulation will be advantageous to the residents of Virginia. Access management regulations and standards can help reduce traffic congestion and its impact on a highway’s level of service. These regulations can reduce traffic crash rates, resulting in increased public safety, fewer injuries and fatalities, and less property loss. A California study found that improved access control reduced crash rates by 42% on rural highways, and a Minnesota study indicated a direct and statistically

significant correlation between crash rates and the number of driveway entrances. This suggests that implementation of the regulations and standards can reduce the personal and fiscal costs of crashes to Virginians.

Access management regulations and standards also promote more efficient movement of goods and people which will support state, regional and local economic development efforts. For businesses, well access-managed corridors can operate at higher speeds, increasing the market area of a business and providing better customer exposure. The reduced delay associated with well access-managed roads can result in lower transportation costs and shorter delivery times for businesses. In addition, the Urban Land Institute's Shopping Center Development Handbook states that "poorly designed entrances and exits not only present a traffic hazard, but also cause congestion that can create a negative image of the center."

At a micro level, sharing entrances can lead to lower costs per entrance applicant, and vehicular and pedestrian connections between properties can increase the customer base for neighboring businesses.

Reduced traffic congestion due to access management can lead to reduced fuel consumption and therefore reduced costs as well as lower air pollution from vehicles. Effective access management ensures that pedestrians and bicyclists face fewer and less frequent motor vehicle highway entrances, thereby making it safer to walk and cycle along the roadway.

An advantage to VDOT and, by extension, the citizens of the Commonwealth will come about as a result of the improved performance of the existing road infrastructure, reducing the need for new or wider highways and preserving the public's investment in existing and new highways.

There will be some disadvantages related to the implementation of the regulation. Industry and the public will need time to adjust and familiarize themselves with the new regulation and standards, which may in some instances result in limitations on the number of new entrances and the allowable turning movements at new entrances. Developers will need to investigate the possibility of the joint use of desired entrances with adjoining property owners in accordance with the regulations and § 33.1-198 of the *Code of Virginia*. Complete implementation of the new regulation will require coordination among developers, state and local governments, and the public. VDOT will provide outreach and training for all interested parties to facilitate a smooth implementation of this regulation.

The time required for industry and the public to become familiar with the new regulations and standards, and the costs to VDOT and localities to conduct outreach and training, will be reduced because industry, the public, and localities should already be familiar with Access Management Regulations: Principal Arterials, which went into effect July 1, 2008, and because of the additional opportunities for involvement in development of the regulation provided by the public comment period.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include 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 statement to that effect.

A requirement dealing with access near interchanges is cited on pages 2E-42 and 43 of VDOT's Road Design Manual, and in the American Association of State Highway and Transportation Officials' (AASHTO's) "A Policy on Design Standards Interstate System, 2005". The AASHTO requirement serves as VDOT's primary reference, as it is a Federal Highway Administration (FHWA) requirement as well. The requirement states that entrances shall not be installed within a certain distance of Interstate off and on ramps--100 feet in urban and 300 feet in rural areas. However, this AASHTO rule was originally

adopted in 1966 and has not been revised even though multiple national transportation research studies have recommended greater distances to prevent traffic backups onto ramps and to reduce crash potential and congestion in the vicinity of the interchange. The access management standards referenced in the regulations apply the ramp/entrance separation distances recommended in the national studies to fully meet the goals of the authorizing legislation.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Definition of “access management,” used the term “median openings.”	Changed the term “median openings” to “median openings/crossovers.”	Accuracy and clarity.
10	Definition of “collectors” specified that they collect traffic “from local streets in residential neighborhoods.”	Removed specific reference to collecting of traffic “from local streets in residential neighborhoods.”	Accuracy and clarity.
10	“Crossover” and “median opening” were combined in one definition. These features were defined as being for crossing <i>traffic</i> .	Created separate definitions for “crossover” and “median opening.” Clarified that crossovers are for crossing <i>movements</i> and <i>left and right turning movements</i> as opposed to <i>traffic</i> .	Accuracy and clarity.
10	Definition of “functional classification” specified that local streets provide access to <i>property</i> .	Added that the access provided by local streets may be to <i>other streets</i> , in addition to property.	Accuracy and clarity.
10		Clarified definition of “intersection,” to include median openings/crossovers and roundabouts.	Accuracy and clarity.
10		Added a definition of “intersection sight distance.”	Accuracy and clarity.
10		Added a definition of “median opening.”	Accuracy and clarity.
10	Defined “roadside.”	Removed definition of “roadside.”	Accuracy and clarity.
10		Added a definition of “roundabout.”	Accuracy and clarity.
10	Defined “traveled way.”	Remove definition of “traveled way.”	Accuracy and clarity.
20	Proposed subsection B addressed exemptions related to plats and plans proffered or approved prior to the effective date of the regulation.	Proposed subsection B was transferred in its entirety to the first item under 24VAC30-73-120 C 3.	Spacing exceptions were consolidated in response to public comments that indicated confusion because exceptions and exemptions to the spacing standards were located in different sections of the proposed regulation.
20		Subsections C, D, and E have been renamed B, C, and D.	To retain consistency following the relocation of the text in proposed subsection B.

20 D		Added a provision to subsection D (proposed subsection E) that the regulation shall supersede the Minimum Standards of Entrances to State Highways (24 VAC 30-71).	Repeal of the Minimum Standards will not likely occur until after this regulation takes effect on October 1. Because there are conflicting requirements in the Minimum Standards and this regulation, it is necessary to state that this regulation will supersede.
50	Catchline was "Appeal and exception procedure."	Changed catchline to "Appeal and <i>sight distance</i> exception procedure."	To specify that the section deals with sight distance exceptions approved by the commissioner, not the exceptions in 24VAC30-73-120 D.
50 A	Referred to "conditions imposed by" a permit.	Changed to "conditions of" a permit.	Accuracy and clarity.
50 A	Contained an appeals timeline.	Changed the timeline for appeals and exceptions to specify <i>calendar</i> days.	Calendar days are specified rather than business days for ease of calculation.
50 B	Provided that the methodology and format of the traffic engineering investigation report shall conform to requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD).	Referred to Instructional and Informational Memorandum IIM-LD-227, instead of the MUTCD, for requirements concerning approval of sight distance exceptions to be used in preparing the traffic engineering investigation report.	MUTCD does not provide such report methodology and format. IIM-LD-227, a VDOT Location & Design Division official memorandum, offers information on what the engineer must consider to justify a sight distance exception. It is available on the VDOT public web site.
60 A	Provided that any violation of the regulation or any condition of an entrance permit shall be subject to the penalties specified in the Land Use Permit Manual (LUPM) (24 VAC 30-150).	Provided that any person violating the regulation or any condition of an entrance permit shall be guilty of a misdemeanor and penalized in accordance with § 33.1-198 of the Code.	The proposed text cited the penalties set forth in the LUPM, which are established in § 33.1-19 of the Code. These penalties relate to violations of CTB regulations. Pursuant to § 33.1-198.1, the access management regulations are promulgated by the commissioner, not the CTB, so § 33.1-19 does not apply. Penalties for violations of the commissioner's rules for commercial entrances (including access management) are set forth in § 33.1-198.
60	Proposed subsection C concerned shared entrance agreements.	Removed proposed subsection C in its entirety.	Proposed subsection C repeats what is described in 24VAC30-73-120 for shared entrances; it has been consolidated in 24VAC30-73-120 C 2.
60		Changed subsection D to C.	To retain consistency following the relocation of the text in proposed subsection C.

70 A 5	Provided that the traffic impact report documents the impact of expected traffic movements during peak hours of the <i>abutting highway</i> .	Provided that the traffic impact report documents the impact of expected traffic movements during peak hours of the <i>abutting highway</i> or during peak hours of the <i>generator</i> .	The peak hour traffic generated by a development can be worse than a highway's peak hour traffic. Richmond International Speedway is an example.
70 A 6		Added a subdivision A 6 providing that use of a shared entrance between adjacent property owners shall be the preferred method of access.	Public commenters recommended adding a provision to emphasize sharing of entrances in accordance with the directive in § 33.1-198 of the Code.
70 A 7		Added a subdivision A 7 to specify that the construction of new crossovers, or the relocation, removal, or consolidation of existing crossovers shall be approved in accordance with the crossover approval process described in Appendix G of the Road Design Manual.	Public comments indicated confusion over approval of a commercial entrance and approval of one that also involved a new or existing crossover. This change provides information on this concern.
70 B 1		Changed the reference for Traffic Impact Analysis Regulations from the VAC citation to the Documents Incorporated by Reference section.	To ensure consistency of references.
70 B 3		Transferred text located in the proposed subsection 24VAC30-73-120 A to this subdivision B 3.	To provide additional clarification on VDOT's authority and responsibility to make sure that a proposed commercial entrance does not have an adverse impact on the safe and efficient movement of traffic on the abutting highway.
90 A		Corrected reference to the Documents Incorporated by Reference section.	Correction.
90 A		Added the word "necessary" with respect to actions to be taken by the property owner at the direction of the district administrator's designee.	Public comments suggested this change to emphasize the importance of minimizing environmental degradation in the siting of private entrances. The intent of the provision is to ensure adequate sight distance for the motorist leaving the entrance to see approaching vehicles.
110	Catchline was " <i>Tenure of commercial entrances.</i> "	Changed catchline to " <i>Existing commercial entrances.</i> "	VDOT received multiple public comments about the impact of the regulations on existing entrances, indicating that the public does not understand the purpose of this section. The term "tenure" seems to be confusing, so the catchline was changed to address this issue.

110 C	Proposed version did not specify any required actions as a result of VDOT's commercial entrance review.	Provided that VDOT may require reconstruction, relocation, commercial entrance consolidation, or upgrading, or a combination of these based on findings of its review of a commercial entrance.	Public comments suggested adding this statement to explain what VDOT can do based on its review of commercial entrances.
120 A	Provided that, as part of any commercial entrance permit review, the district administrator's designee will determine what improvements are needed.	Transferred this provision to new subsection D.	The provision is more pertinent to what is stated in the commercial entrance design review subsection 20VAC30-73-70 B and the exception review process in subsection D.
120 A	Contained a provision regarding entrances within the limits of an access management plan approved by the local government and VDOT.	Transferred this provision to new subdivision C 3.	This provision references entrances identified in access management corridor plans. It has been transferred to subdivision C 3 to consolidate text dealing with the topic.
120		Added a new subsection B regarding compliance with access management during the rezoning, site plan, and subdivision plat review process.	The locality, the developer, VDOT, and the general public will benefit by access management requirements being considered as early as possible in the land development review and approval process.
120		Broke out a new subsection C with existing language.	For clarity.
120 C 1	Proposed subdivision A 1 set out restrictions for commercial entrance locations and referenced procedures in subsection B for requesting exceptions.	Subdivision C 1 set out the same restrictions but changed the referenced procedures. Subdivision C 1 provided that a request for an exception must be submitted according to subsection D and shall include a traffic engineering investigation report.	To make the exception process easier to understand, this section was amended so that the description of each exception includes the type of information that must be submitted to justify the exception request. Also, a more detailed, uniform set of administrative procedures for handling the exception requests is set forth in subsection D. These are not substantive changes; the changes offer added guidance.
120 C 2		Rearranged language in proposed subdivision A 2 into subdivision C 2.	To make the expectations easier to understand.
120 C 2	Proposed subdivision A 2 provided the reasons that an entrance permit applicant would not be expected to share an entrance with adjoining property owners.	Specified in subdivision C 2 what type of evidence would need to be submitted to document compliance with the reasons for an exception to the shared entrance requirement.	This section was amended based on public comments that expressed the need to explain in more detail the expectations for qualifying for an exception to the shared entrance rule.

120 C 3		Consolidated all exceptions and exemptions into subdivision C 3 (proposed subdivision A 3).	To consolidate all exceptions and exemptions to the spacing standards to make the regulation more understandable for all parties.
120 C 3 a	Proposed subsection 24 VAC 30-73-20 B addressed exemptions related to plats and plans proffered or approved prior to the effective date of the regulation.	Subdivision C 3 a contained the text transferred from proposed subsection 24 VAC 30-73-20 B and also addressed exemptions related to <i>conditions of development</i> .	Some localities such as Chesterfield County use very detailed written proffered conditions in place of plans of development. The change recognizes this practice while retaining the original intent that the specific location of the entrance must be identified for vesting purposes.
120 C 3 a	Proposed subsection 24 VAC 30-73-20 B addressed exemptions related to plats and plans proffered or approved prior to the effective date of the regulation.	Subdivision C 3 a contained the text transferred from proposed subsection 24 VAC 30-73-20 B and added "as part of a rezoning approved by the locality."	Several public comments noted that proffers do not take effect and therefore are not vested until approved by the locality.
120 C 3 a	Proposed subsection 24 VAC 30-73-20 B addressed exemptions related to proffered plans of development or conditions and subdivision plats and site plans approved by the locality prior to the effective date of the regulation.	Subdivision C 3 a contained the text transferred from proposed subsection 24 VAC 30-73-20 B. Added other documents which could be submitted for review and eligible for the exemption. Specified that such documents be "submitted by the locality to VDOT for review and received by VDOT" prior to the regulation's effective date.	Public comments and VDOT staff noted that developers spend significant funds preparing, and localities and VDOT expend considerable time reviewing, plats and site plans prior to their approval by the locality. This change ensures that developers will not be required to develop new plats and plans because their plats and plans had not been approved by the locality prior to Oct. 1.
120 C 3 b	Proposed subsections A and C contained provisions related to coordination between VDOT and localities on access management corridor plans.	Subdivision C 3 b consolidated provisions in different parts of the proposed regulations pertaining to access management corridor plans, including the provisions in proposed subsections A and C.	To consolidate all provisions pertaining to access management corridor plans to make the regulation more understandable for all parties.
120 C 3 b	Proposed subsection C provided that the commissioner may approve alternate spacing standards.	Subdivision C 3 b (proposed subsection C) changed "commissioner" to "district administrator."	To be consistent with subsection 24 VAC 30-73-50 B (sight distance exceptions) and follow current practice, the commissioner would only need to be involved if there was a sight distance issue.
120 C 3 b		Subdivision C 3 b (proposed subsection C) added that access management corridor plans must identify the locations of any physical constraints to creating shared entrances or vehicular/pedestrian connections.	Public comments suggested that if such physical constraints were identified during the highway corridor study, potential locations for shared entrances and interparcel connections could be included in the corridor plan.

120 C 3		Changed a to c, b to d, and c to e.	To retain consistency following the relocation of text into subdivisions C 3 a and C 3 b.
120 C 3 c	Proposed subdivision A 3 a contained provisions related to exceptions to the spacing standards for entrances in established business corridors in urban areas.	Added information about how a permit applicant on an established business corridor in an urban area can submit an exception request and what type of documentation is needed to justify the request.	To make the exception process easier to understand, this section was amended to reference the administrative procedures for handling exception requests as set forth in subsection D. This is not substantive change; it offers better guidance.
120 C 3 d	Proposed subdivision A 3 b related to developments within an urban development area.	Applied provisions for urban development areas to areas designated in the local comprehensive plan for higher density development.	To extend this exception to proposed developments in localities that are not required by the Code to designate an urban development area and in localities that have not yet designated such areas.
120 C 3 d	Proposed subdivision A 3 b allowed the district administrator's designee to approve spacing standards for "entrances and intersections" within new urbanism neighborhood developments.	Changed "entrances and intersections" to "public street intersections."	Accuracy and clarity. New urbanism neighborhood developments will contain public streets and therefore public street intersections.
120 C 3 d	Proposed subdivision A 3 b addressed exceptions for developments within urban development areas.	Clarified that the developer must submit a request according to subsection D for an exception to the spacing standards that includes information on the design of the development and on the conformance of such entrances and intersections with the intersection sight distance standards.	This subdivision was amended to make the exception process easier to understand and to explain what type of information needs to be submitted to justify the exception request.
120 C 3 e	Proposed subdivision A 3 c contained provisions related to exception requests for a development's second entrance that is required by VDOT's secondary street requirements.	Subdivision C 3 e (proposed subdivision A 3 c) added a reference to the Secondary Street Acceptance Requirements (SSARs) (24 VAC 30-92).	SSARs took effect March 9, 2009, after publication of the proposed version of this regulation.
120 C 3 e	Proposed subdivision A 3 c contained provisions related to exception requests for a development's second entrance that is required by VDOT's secondary street requirements.	Provided that the developer may submit a request according to subsection D for an exception to the spacing standards that includes information on the design of the development.	This subdivision was amended to make the exception process easier to understand and to explain what type of information needs to be submitted with the exception request.
120 C 3 e (1)		Corrected reference to the Documents Incorporated by Reference section.	Correction.
120 C 3 e (2)	Proposed subdivision A 3 c contained provisions related to exception requests for a development's second entrance to a minor arterial highway that is required by VDOT's secondary street requirements.	Subdivision C 3 e (2) added a provision that, if approved, such commercial entrances shall be required to meet the intersection sight distance standards specified in Appendix G of the Road Design Manual.	Added the provision to be consistent with the intersection sight distance standard requirement in subdivision C 3 e (1) for entrances to collector highways and local streets.

120 C 3 f	Proposed subdivision B provided a general exception to the spacing standards for reasons other than those specified in subdivision A.	Added a subdivision C 3 f for a spacing standard exception for parcels that have insufficient frontage on a highway due to parcel dimensions or physical constraints. Specifies the information necessary to justify the exception and references the procedures in subdivision D for submitting an exception request. States that if the exception is approved the entrance will be limited to right-in/right-out only movements to protect the safe and efficient flow of traffic on the highway.	Subsection C did not specifically address a common problem of parcels not having enough usable road frontage for an entrance to be spaced the necessary distance from other existing entrances. Subdivision C 3 f provides the details for handling this problem via an exception request.
120 C 4	Proposed subdivision A 4 addressed vehicular and pedestrian circulation between adjoining <i>undeveloped</i> properties.	Removed the word “undeveloped.”	To address instances where connections are possible between new and existing developments.
120 C 4	Proposed subdivision A 4 addressed facilitation of vehicular and pedestrian circulation.	Provided that vehicular connections will be to the boundaries of the property and such connections will be a condition of commercial entrance permit issuance.	Public comments indicated that people thought they had to purchase a right-of-way easement to extend the vehicular/pedestrian connection through the adjacent property. This change will address this misunderstanding. Also made it clear that the connection will be a condition of commercial entrance issuance.
120 C 4		Reorganized the section.	To improve clarity.
120 C 4	Proposed subdivision A 4 d addressed unified access between development sites under the same ownership.	Used the term “vehicular and pedestrian” access.	Public commenters recommended that language be added to make it clear that unified access and circulation systems should be designed for pedestrians as well as vehicles.
120 C 4 a	Proposed subdivision A 4 a provided that vehicular and pedestrian connections are not required if there are physical constraints to such connection.	Specified that connections shall not be required if the permit applicant submits a request for an exception according to subsection D and provides documentation that there are physical constraints.	This subdivision was amended to make the process for requesting an exception easier to understand.
120 C 4 b	Proposed subdivision A 4 c provided that an applicant’s entrance shall be restricted if the applicant cannot or does not wish to comply with connection requirements.	Removed “cannot or.”	The intent is to create connections where feasible and not “penalize” applicants that cannot provide such connections due to physical constraints. The provision is intended to apply to applicants who refuse to comply with connection requirements.

120 C 5	Proposed subdivision A 5 addressed traffic signal spacing.	Provided that a request for an exception to this requirement submitted according to subsection D shall include a traffic engineering investigation report that considers the use of roundabouts.	A roundabout should be considered as a substitute for signalization where the signalized spacing standards cannot be met and the alternative is a right-in/right-out entrance.
120		Changed B to D.	To retain consistency following the addition of subdivisions B and C.
120 D	Proposed subsection B directed readers to section 50 for information on procedures for exceptions.	Subsection D added details on the exception procedure and removed provisions regarding documents to be included in the request.	This section establishes the details on the exception review process and differentiates it from the appeal process in section 50, which can be used if the exception request is denied. Information regarding documents to be included with an exception request are now provided with each type of exception.
120 D	Proposed subsection B did not include a timeline for resolution of exception requests.	Subsection D provided that the district administrator's designee will advise the applicant of the decision regarding the exception within 30 calendar days.	A deadline has been added for VDOT's decision on the exception request.
120	Subsection C addressed access management corridor plans.	This provision was transferred to subdivision C 3 b.	To consolidate all provisions pertaining to access management corridor plans to make the regulation more understandable for all parties.
150		Changed the reference for the Land Use Permit Manual from the VAC citation to the Documents Incorporated by Reference section.	To ensure consistency of references.
150 C	Subsection C included a list of items which must be restored at the permittee's cost.	Removed "roadside" from the list of items which must be restored at the permittee's cost.	"Roadside" was defined as the remaining right-of-way beyond the highway shoulders. The subsection already specified all disturbed rights-of-way. Use of the term was redundant.
170 C	Referenced the Road and Bridge Standards (effective February 1, 2001).	Updated the reference to the 2008 Road and Bridge Standards (effective June 2009).	To reflect the most recent version of the document.
170 G	Referred to Maintenance Division.	Changed to Asset Management Division.	To reflect the current name of the division.
170 H	Referred to Maintenance Division.	Changed to Asset Management Division.	To reflect the current name of the division.
170 J	Referred to Maintenance Division.	Changed to Asset Management Division.	To reflect the current name of the division.
170 K		Added a reference to the Instructional and Informational Memorandum IIM-LD-227.3	To provide details on a document for which a reference was added in section 50.

170 L		Added a reference to the Secondary Street Acceptance Requirements.	To provide details on a regulation for which a reference was added in subdivision 120 C 3 e. SSARs took effect March 9, 2009, after publication of the proposed version of this regulation.
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Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Following publication of a General Notice in *The Virginia Register* on October 15, 2007, a public hearing for the APA-exempt regulation was conducted on October 22, 2007, in Richmond. Both oral and written comments were accepted at that time. Notice of the public hearing was published twice in thirteen newspapers across the Commonwealth and distributed to fifty media outlets, and posted on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov), in the Calendar of Events section of the Virginia Register of Regulations, and on the access management web page on the VDOT website (<http://www.virginiadot.org/accessmgt>). The proposed regulations were posted on this website for public review and a link to an email form was placed on the website to provide another opportunity for the public to use to submit their comments. Over 250 comments were received from local governments; business, transportation engineering and environmental organizations; and the general public.

Under the provisions of Chapters 274 and 454 of the Acts of Assembly of 2008, publication of the General Notice is considered to be the NOIRA for the Access Management Regulations: Minor Arterials, Collectors, and Local Streets. Since the original regulation dealt with all types of roads, the comments made at that time are still relevant to minor arterials, collectors, and local streets. The revisions that were made to the Access Management Regulations: Principal Arterials based on the many comments that were received were also incorporated into the proposed version of this regulation. Comments on the Access Management Regulations: Principal Arterials and VDOT's responses may be reviewed at: <http://www.virginiadot.org/projects/accessmgt/ResponseAccessMgtPublicComments11.20.07.pdf>

VDOT used a committee-based approach to developing the regulation and soliciting and evaluating comments. A VDOT technical committee representing a broad range of disciplines from Central Office divisions, the regions, districts, residencies, and the Virginia Transportation Research Council prepared the proposed regulations and standards. The technical committee reviewed access management regulations and standards from many different sources (such as New Mexico, Maryland, North Carolina, Florida, and Michigan), as well as information from the Transportation Research Board (TRB), the Federal Highway Administration (FHWA), the Institute of Transportation Engineers (ITE), and the American Association of State Highway and Transportation Officials (AASHTO).

A policy advisory committee was created composed of external stakeholders, including representatives from the Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, Virginia Association of Counties, the Virginia Section of the Institute of Transportation Engineers, and the Piedmont Environmental Council, as well as internal stakeholders from VDOT and the Office of the Secretary of Transportation. This committee reviewed and refined the proposed regulations and standards, helped evaluate the public comments, and submitted their recommendations to the Commissioner.

The Access Management Regulations (12/07) published pursuant to Chapters 863 and 928 of the Acts of Assembly of 2007 were intended to apply to all functional classifications of highways. The regulation was amended, pursuant to Chapters 454 and 274 of the Acts of Assembly of 2008, to apply only to principal arterials, and published in final form as Access Management Regulations: Principal Arterials. However, because the 12/07 Access Management Regulations contemplate other functional classifications, the same content, modified to state applicability to minor arterial, collector, and local streets, was used as the proposed version of this regulation.

In accordance with the provisions of the APA, a 60-day public comment period was provided for the Access Management Regulations: Minor Arterials, Collectors, and Local Streets to allow stakeholders to provide input on the proposed regulation via the internet, through the mail, and in person at four public hearings held throughout the state. These public hearings were advertised on the Virginia Regulatory Town Hall, the Commonwealth Calendar, and twice in thirteen newspapers throughout the state.

More than 200 written and public hearing comments were received from local governments, developers, transportation engineering consultants, environmental and business organizations, a planning district commission, pedestrian/bicyclist groups and several individuals. The public comments were evaluated and used to revise the proposed regulation. A response was prepared for each comment. The comments and the VDOT responses were sent to each commenter and were posted on the VDOT web site. A summary of the written and public hearing comments received and VDOT's responses may be viewed at:

http://www.virginiadot.org/projects/resources/access_management/24VAC30-73_Written_Comments_Responses_2_5.09.pdf

http://www.virginiadot.org/projects/resources/access_management/Access_M_Public_Hearing_Comments_Responses_2_5.09.pdf

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

This is a new regulation. However, it does carry over and consolidate existing regulations in the Minimum Standards of Entrances to State Highways (24 VAC 30-71) and the entrance regulations in the Land Use Permit Manual (24 VAC 30-150). Items appearing in the Minimum Standards such as entrance illustrations and sight distance standards have been relocated to the Road Design Manual and incorporated by reference. The regulation contains language providing that, in the event of a conflict, the new regulation will supersede the Minimum Standards. The Minimum Standards of Entrances will be repealed by the Commonwealth Transportation Board in a new regulatory action. A general narrative of changes is provided below.

Section 10 includes definitions for terms relevant to the regulations mentioned above. Some are new ("roundabout," "median opening"), some have been deleted ("roadside," "traveled way"), and some have been revised ("crossover," "intersection").

Section 20 includes information on authority to regulate entrances to highways. Included is information on the various statutes and regulations concerning entrances, along with the role of the Commonwealth Transportation Board. Some of this information was previously supplied in the Minimum Standards (24 VAC 30-71) or the Land Use Permit Manual (24 VAC 30-150), but additional information has been supplied to update the regulation. This section also discusses the authority of the district administrators or their designees to issue private entrance permits and commercial entrance permits.

Section 30 includes information on the application of the regulation to minor arterials, collectors, and local streets, and the availability of maps to facilitate identification of highways by their functional classification. This information does not appear in the Minimum Standards (24 VAC 30-71) or the Land Use Permit Manual (24 VAC 30-150).

Section 40 includes administrative procedures and rules for obtaining commercial and private entrance permits. This information was previously supplied in existing regulations, but has been revised consistent with the authority granted to district administrator's designees in 24 VAC 30-73-20.

Section 50 includes an appeal and sight distance exception procedure. This information was supplied in existing regulations, but has been revised to include a deadline for VDOT's written response to the request.

Section 60 includes general provisions governing commercial and private entrances. This information is supplied in existing regulations, but has been revised consistent with statutory authority and requirements concerning access management.

Section 70 includes details on commercial entrance design. Illustrations and other design information were supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised to provide more detailed instructions for new items such as bicycle/pedestrian features and traffic impact analyses. Reference is made to the existing crossover location approval process for those cases when a proposed commercial entrance involves adding or deleting a crossover on a median divided highway.

Section 80 includes details on minimum sight distance for commercial entrances. Sight distance tables and other design information were supplied in the Minimum Standards (24 VAC 30-71), but will now be located in the Road Design Manual. Sight distance standards have not been changed.

Section 90 includes details on private entrances. Regulations on private entrances were included in the Land Use Permit Manual (24 VAC 30-150), but the content has been revised. Under current provisions of the Land Use Permit Manual, if the property owner purchased the drainage pipe for the entrance, VDOT maintenance forces would install the pipe at no cost. This practice takes maintenance forces away from necessary roadwork and drains funds from the construction budget for each county's secondary roads. The proposed replacement regulation for the Land Use Permit Manual, 24 VAC 30-151, reviewed and approved by the Department of Planning and Budget, the Secretary of Transportation, and the Governor, requires the property owner to arrange installation of the entrance. This change is not anticipated to cause any inconvenience, since property owners will already need to engage the services of a contractor to perform grading and other work associated with the pipe installation, and this part of the job can be performed with the other work.

Section 100 includes information on requirements for coordination with local governments. This subject was not explicitly addressed in existing regulations.

Section 110 includes information on existing commercial entrances, such as criteria under which VDOT may require the reconstruction, upgrading, or relocation of a commercial entrance due to unsafe condition, change in use, or its being unserviceable. This information was supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised. For example, a graphic depiction of maintenance responsibilities of VDOT and owners of private and commercial entrances has been transferred from the Minimum Standards (24 VAC 30-71) to the Road Design Manual and more guidance is provided on criteria to be used to determine the condition of the entrance or the change in use of the entrance due to an increase in the volume or type of traffic using the entrance.

Section 120 includes information on commercial entrance access management. This is a new provision discussing access management standards incorporated by reference in Appendix G of the Road Design Manual, along with access management requirements, such as spacing of entrances, vehicular and pedestrian circulation among properties, and traffic signal spacing. All exceptions and exemptions to the

spacing standards have been consolidated to make the regulation more understandable for all parties. A detailed description of the exception request review process has been provided including a deadline for VDOT's response to the request.

Section 130 includes information on drainage requirements. This information was supplied in the Minimum Standards (24 VAC 30-71).

Section 140 includes information on drive-in theater requirements. This information was supplied in the Minimum Standards (24 VAC 30-71) and is required by § 33.1-12(15).

Section 150 includes information on temporary entrances (construction/logging entrances). This information was supplied in the Land Use Permit Manual (24 VAC 30-150), but has been revised to be consistent with proposed changes to this regulation.

Section 160 includes information on access to public waters. This information was supplied in the Land Use Permit Manual (24 VAC 30-150), but has been revised to eliminate unnecessary procedural information concerning permit applications.

Section 170 lists documents incorporated by reference. This information was supplied in the Minimum Standards (24 VAC 30-71), but the content has been revised to update technical material.

See the "Changes made since the proposed stage" section of this background document for additional information on the specific changes made between the proposed and final versions.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets have been written to prevent any disproportionate adverse impacts on small businesses, since their purpose is to preserve and improve the efficient operations of the state systems of highways, which benefits businesses by reducing congestion and delay, increasing the market area of a business and providing better customer exposure. Alternate regulatory methods considered include:

- 1) *Establishment of less stringent compliance or reporting requirements* – Compliance requirements are necessary to promote public safety and efficient movement of traffic on the highways. However, the regulations do ensure, in accordance with statute, that private property is entitled to reasonable access to the systems of state highways while balancing public safety and benefits from the regulations and standards. The Access Management Regulations: Minor Arterial, Collector, and Local Streets do include provisions allowing entrance permit applicants to appeal entrance permit requirements and conditions for entrance approval, when justified due to special circumstances. The regulatory procedure imposes no appeal fee on the applicant and the procedure includes a deadline (60 days) for VDOT to make a decision on an appeal. The District

Administrator or designee is provided with considerable discretionary authority regarding design requirements.

- 2) *Establishment of less stringent schedules or deadlines for compliance or reporting requirements* – There are no schedules or deadlines for compliance or reporting. The appeal process contains deadlines for VDOT’s response to an appeal. The current entrance permit appeal process contains no such deadlines. Adding such deadlines will assure that entrance permit applicants, including small businesses, receive timely responses to their concerns.

- 3) *Consolidation or simplification of compliance or reporting requirements* – Compliance requirements are necessary to promote public safety and efficient movement of traffic on the highways. Attempts were made to clarify the requirements wherever possible without compromising public safety and benefit. For example, the regulations allow a permit applicant to use the rezoning traffic impact statement or the site plan/subdivision plat supplemental traffic analysis submitted for the development in accordance with the Traffic Impact Analysis Regulations (24 VAC 30-155) when documenting the impact of the proposed entrance and its related traffic on the operation of the state highway system, provided that it adequately documents the effect of the proposed entrance and its related traffic on the operation of the highway to be accessed.

- 4) *Establishment of performance standards for small businesses to replace design or operational standards required in the regulation* – Design standards are required pursuant to § 33.1-198.1; performance standards cannot be substituted. The regulations are not retroactive in their application to entrances. The regulations will grandfather commercial entrance locations identified on rezoning proffered plans of development, site plans, and subdivision plats that are approved prior to the October 1, 2009, effective date of the regulations. Therefore, applicants meeting this deadline would not be required to alter the location of their previously approved entrances.

- 5) *Exemption of small businesses from all or any part of the requirements contained in the regulation* – Because the requirements are designed to ensure public safety, creating exemptions to the requirements would not be in the public interest. As discussed above, however, applicants can appeal entrance design decisions, when justified by special circumstances.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

The Access Management Regulations: Minor Arterials, Collectors, and Local Streets will have a positive impact on the institution of the family. This regulation will help reduce traffic congestion, air pollution, vehicular crash rates, promote efficient movements of goods and people, preserve public investment in existing roads and reduce the need for new highways and widening of existing highways. These impacts will help provide families with a more efficient and safer transportation network.