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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Department of Transportation
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC30-73
VAC Chapter title(s)	Access Management Regulations
Action title	Chapter 73 Regulatory Reform and Periodic Review
Date this document prepared	July 13, 2023

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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Virginia Department of Transportation (VDOT) is undertaking a comprehensive review of 24VAC30-73, Access Management Regulations. This regulation enables VDOT to control access to state highways and set standards and policies for the entrances that provide this access. The intent of this action is to remove redundant or obsolete language, with the goal of identifying opportunities for regulatory reduction and streamlining in accordance with Governor Youngkin's Executive Order 19.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

Department or VDOT means the Virginia Department of Transportation.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

On July 13, 2023, VDOT approved a Notice of Intended Regulatory Action to review 24VAC30-73 to potentially amend any overly burdensome requirements, remove any obsolete information, and provide more clarity with streamlined regulatory requirements. VDOT is conducting a review of its regulations in accordance with Governor Youngkin's Executive Order 19.

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's authority to regulate entrances and manage access to highways is provided in §§ 33.2-223, 33.2-240, 33.2-241, 33.2-242, and 33.2-245 of the Code of Virginia.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

As described in the Code of Virginia sections referenced above, the Commissioner of Highways is required to control access to state highways and set standards and policies for the entrances that provide this access. VDOT shall review and analyze proposed entrance applications in order to mitigate any potential adverse impacts on state-controlled highways, to protect VDOT assets, and to preserve public safety.

Each proposed highway entrance creates a potential conflict point that impacts the safe and efficient flow of traffic on the highway; therefore, private property interests in access to the highway must be balanced with public interests of safety and mobility. Managing access to highways can reduce traffic congestion, help maintain the levels of service, enhance public safety by decreasing traffic conflict points, support economic development by promoting the efficient movement of people and goods, reduce the need for new highways and road widening by improving the performance of existing highways, preserve the public investment in new highways by maximizing their efficient operation, and better coordinate transportation and land use decisions. It is essential that entrance and site design allow safe and efficient movements of traffic using the entrance while minimizing the impact of such movements on the operation of the systems of state highways. As such, the Access Management Regulations are necessary for the protection of public health, safety, and welfare.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

No new substantive provisions are being considered.

During its review of the regulation, VDOT is expected to consider the following topics:

1. General
 - a. Review to ensure the regulation comports with statute and applicable federal requirements.
 - b. Focus on making the regulation organized and clear.
 - c. Review for opportunities to reduce or alleviate regulatory burdens.
2. Definitions
 - a. Review definitions, revise and update where appropriate.
3. Documents Incorporated by Reference
 - a. Review use of documents and identify possible opportunities for updating or removal.
4. Forms
 - a. Review use of forms and identify possible opportunities for updating or removal.

The above list is not inclusive of all items that may be considered. Draft regulatory text is not available at this time.

Alternatives to Regulation

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

This regulation is necessary for the health, safety, and welfare of the travelling public. As a part of VDOT's review, alternatives to the current regulatory text will be considered. The Department will also consider the burden on individuals and small businesses for achieving the goals set forth by the regulation.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

In addition, pursuant to the ORM procedures and § 2.2-4007.1 of the *Code of Virginia*, the Department is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for

the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

VDOT is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

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

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