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## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Transportation
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24 VAC 30-73
<b>VAC Chapter title(s)</b>	Access Management Regulations
<b>Action title</b>	Chapter 73 Regulatory Reform and Periodic Review
<b>Date this document prepared</b>	September 20, 2024

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 Access Management Regulations, 24VAC30-73, enable the Virginia Department of Transportation (VDOT) to control access to state highways and set standards and policies for the entrances that provide this access. VDOT has undertaken a comprehensive review of these regulations. 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.*

“CTB” means the Commonwealth Transportation Board.

“DIBR” means Documents Incorporated by Reference.

“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.*

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On September 19, 2024, VDOT approved final amendments to 24VAC30-73, Access Management Regulations.

### 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.*

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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.*

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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

*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.*

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The regulatory changes are intended to remove redundant or obsolete language, add clarity, and achieve regulatory reduction and streamlining in accordance with EO 19. Along with administrative updates and bringing the text in line with current practice, VDOT proposes to remove the Documents Incorporated by Reference (DIBR) and instead reference applicable portions of those documents in the terms of the land use permit secured by regulated entities. These documents include standards and specifications with which regulated entities are required to comply. This change will ensure the most relevant versions of the documents are being followed by regulated parties, more narrowly tailor requirements to the specific type of permit and associated activity, and ease burdens on permittees in determining applicability.

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 having 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, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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In addition to administrative updates, eliminating redundancy, adding clarifying language, and bringing the text in line with current practice, VDOT proposes to remove the DIBR from this regulation. This will eliminate confusion over which documents each regulated entity is required to follow and ensure the correct versions of the relevant documents are specified at any given time. The relevant portions of these documents will instead be included in the terms of the land use permit.

## 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.*

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The primary benefit to both the public and VDOT of the removal of the DIBR section is improved clarity for regulated entities, ensuring they are aware of the specific documents relevant to them by including them in the terms of the land use permit. This change will also ensure that the most updated version of each document is clearly specified for compliance. There are no disadvantages to this proposed change, as the permit application forms will be updated to correspond to this change and are publicly available on VDOT's website. The other 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.*

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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.*

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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.*

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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.*

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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
73-10	N/A	Section 10 defines the words and terms used in the regulation.	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.</p> <p>The definitions of “functional area of an intersection” and “trip” will be removed. They have been identified as redundant or no longer relevant.</p> <p>The definition of “turn lane” will be modified to include information about vehicle storage to align the definition with current practice, and the definition of “limited access highway” will be streamlined.</p> <p>Other minor changes will be made to the definitions in this section.</p>
73-20	N/A	This section outlines the authority of VDOT and the CTB related to access management.	VDOT proposes to remove the last sentence of subsection A to streamline the regulation and eliminate unnecessary text.
73-30	N/A	This section includes information on the application of the regulation to principal arterials, minor arterials, collectors, and local streets and the availability of maps to facilitate identification of highways by their functional classification.	This text of this section will be simplified to state that the regulation applies to any highway that is a part of the systems of state highways. The inclusion of different functional classifications was needed when the regulation was phased in upon initial adoption, but the simplified verbiage is now more appropriate. The requirement for the Commissioner to publish maps of functional

			classifications is no longer necessary in this regulation because the regulation now states that it applies to all highways in the state system.
73-50	N/A	Section 50 describes the appeal and exemption procedure and the associated requirements.	References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific documents.
73-60	N/A	This section describes general requirements for entrances and the type of access that will be permitted by VDOT.	VDOT proposes to replace the last sentence of subsection A with a new sentence clarifying potential remedies available to VDOT for the construction of unpermitted entrances.
73-70	N/A	This section describes the requirements for commercial entrance design.	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific sections of these documents.</p> <p>Subsection A(5) will be removed to streamline the regulation as the intent of the text is restated in subsection B(1).</p> <p>Subsection A(7) will also be removed as median crossover work is entirely within the right-of-way and subject to land use permit conditions, which will include the referenced DIBR moving forward.</p> <p>Other minor clarifying and formatting changes will be made to this section.</p>
73-80	N/A	Section 80 includes details on minimum sight distance requirements for commercial entrances.	References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific sections of these documents.
73-90	N/A	Section 90 includes details on private entrances and describes	References to specific DIBR will be removed to reflect the inclusion of the

		the responsibilities of both the property owner and VDOT.	<p>relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific sections of these documents.</p> <p>The proposed amendments will add clarity to subsection E regarding VDOT's maintenance responsibilities, particularly regarding the cleaning and replacement of drainage pipes. This is intended to resolve potential confusion for property owners regarding VDOT's responsibilities.</p>
73-120	N/A	This section outlines the access management requirements for commercial entrances.	<p>References to specific DIBR will be removed to reflect the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific sections of these documents.</p> <p>The amendments also remove a duplicative sentence referencing the appeal process described in section 50, which will help streamline the regulation. Other minor clarifying and formatting changes will be made to this section.</p>
73-150	N/A	This section contains requirements for temporary construction or logging entrances.	The last sentence of subsection A as well as subsections B and C will be removed as they restate requirements in 24VAC30-151, the Land Use Permit Regulations, helping to streamline the regulation.
73-160	N/A	This section outlines the conditions for VDOT to grant use of portions of highway right-of-way for access to public waters.	The reference to the Department of Game and Inland Fisheries will be updated to the Department of Wildlife Resources.
FORMS	N/A	This section contains the land use permit forms relevant to access management.	These forms will be updated to reflect the removal of the DIBR from the regulation and the inclusion of the relevant manuals and specifications within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed by regulated parties and remove confusion as to the

			applicability of specific sections of these documents.
DIBR	N/A	This section contains the Documents Incorporated by Reference for the regulation.	This section will be repealed and the relevant documents incorporated within the terms of the land use permits. This will ensure the most updated versions of the documents are being followed and ease the burden on regulated entities to determine the applicability of specific sections of these documents.