



Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-151
Regulation title	Land Use Permit Regulations
Action title	Repeal and Replace Existing Regulation (24 VAC 30-150-10) with Updated and Rewritten Regulation under same Title and New Number (VAC 24-30-151-10 et seq.)
Date this document prepared	December 29, 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The *Land Use Permit Regulations* (LUPRs) (24 VAC 30-151) have the same purpose as the *Land Use Permit Manual* (LUPM) (24 VAC 30-150) – they define what uses may be permitted on the right-of-way under the control of the Commonwealth Transportation Board (CTB) and the Virginia Department of Transportation (VDOT). Because of the volume of changes between the LUPM and the LUPRs, the LUPRs are being promulgated as a new regulation and the LUPM is being repealed. Under the LUPRs, permit requirements for utilities in subdivisions have been simplified, roadside memorial signage is permitted under certain conditions, fees for permits have been increased, and accommodation fees for utilities within limited access right-of-way have been added. The LUPRs eliminate redundant or obsolete provisions and provide clarity. Sections have been rearranged from the LUPM to the LUPRs to improve readability. The LUPM was approximately 150 pages in length, while the LUPRs are approximately 80 pages.

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 October 15, 2009, the Commonwealth Transportation Board (CTB) adopted the *Land Use Permit Regulations* (24 VAC 30-151) and repealed the *Land Use Permit Manual* (24 VAC 30-150), to be effective in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the *Code of Virginia*) and the Virginia Register Act (§ 2.2-4100 et seq. of the *Code of Virginia*).

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.

Section 33.1-12 (3) of the *Code of Virginia* gives the CTB the authority to make regulations concerning the use of the system of state highways. This authority is broadly stated, so there is significant discretion in establishing the criteria, policies, and procedures addressing work performed on state-owned right-of-way. Additionally, § 33.1-206.1 of the *Code of Virginia* requires the CTB to establish regulations concerning the erection of roadside memorials.

The CTB has used its authority to maintain the rights-of-way along the highways in a manner necessary to preserve the integrity, operational safety, and service of function of the roadway. The permit process allows VDOT to minimize the risk that work performed on its property will result in any damage to existing structures or utilities. Commercial and private users benefit from the cooperative system of land management because a consistent permit program minimizes costs, allows more precise planning to perform the work, ensures fair treatment, and assists in facilitating residential and commercial development.

To accomplish their purpose, the *Land Use Permit Regulations* are broad in scope. For example, they address general and specific policies concerning placement of utilities (e.g., controlled access rights-of-way), installation of drainage pipes, landscape planting and trimming, miscellaneous permits, and special agreements (e.g., agricultural or commercial use).

This regulation does not exceed minimum requirements of the state mandate, as the statutes specify none.

Failure to comply with the provisions of this regulation may subject violators to a civil penalty, as provided in § 33.1-19, Effect of Board's rules and regulations.

Statutory text for the Code sections referenced above can be accessed via the following website:

<http://leg1.state.va.us/000/src.htm>

On November 24, 2009, the Office of the Attorney General certified that VDOT has the legal authority, pursuant to the laws cited above, to promulgate the *Land Use Permit Regulations* and repeal the *Land Use Permit Manual*, and that the *Land Use Permit Regulations* comply with applicable state and federal statutes.

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.

This regulation sets forth the requirements applicable to all activities permitted within the right-of-way as allowed by the CTB. These activities include installation of utilities, construction of private and commercial entrances, landscaping, and temporary use of the right-of-way. The regulation sets forth criteria used by VDOT's central office and construction district land use personnel in considering whether to issue permits. The regulation is intended to preserve the integrity of the highway system and protect the safety of motorists, pedestrians, and workers. The *Land Use Permit Manual* was last updated in 1983. This update is necessary to accommodate changes in technology that impact the use of the right-of-way, as well as changes in business practices.

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.

- **Internal guidance and procedures (removed)** – The *Land Use Permit Regulations* do not contain the procedural and design guidance information that was contained in the *Land Use Permit Manual*. The procedural information is used solely by VDOT staff, but it is not needed as part of the regulation, and permit applicants will not be inconvenienced by its omission. Deletion of procedures and internal guidance ensures that the regulation contains only the information necessary for the administration of land use permits.
- **General design standards (removed)** - General design standards are addressed in separate regulations, *Access Management Regulations: Principal Arterials* (24 VAC 30-72) and *Access Management Regulations: Minor Arterials, Collectors, and Local Streets* (24 VAC 30-73), which were mandated by the 2007 and 2008 General Assemblies. The fact that the *Land Use Permit Regulations* do not include design standards ensures that the regulation contains only the information necessary for the administration of land use permits.
- **Regulations allowing for roadside memorials** – Pursuant to § 33.1-206.1 of the *Code of Virginia*, the *Land Use Permit Regulations* set forth the criteria for roadside memorials and the responsibilities of the permit applicant / permittee with respect to payment of costs and maintenance.
- **Increased fees** - Fees have not been increased since 1983. The new fees established in the *Land Use Permit Regulations* will more closely approximate actual costs of permit issuance and administration. The replacement regulation also clarifies that residencies may set up accounts receivable for plan review, inspection, and administration of complex permits.
- **Accommodation fees** - The *Land Use Permit Regulations* include annual accommodation fees for non-telecommunication utilities within limited access right-of-way. The *Land Use Permit Manual* does not allow this access, and companies have expressed an interest in being able to access these rights-of-way, even if a fee is assessed.

- Private entrances** - Previously, private entrance permits were issued and drainage pipes for these entrances were installed by VDOT at no cost to the property owners. The *Land Use Permit Regulations* require an application fee for the permit. Requirements related to pipe installation have been removed from the replacement regulation as they are now addressed in the Access Management Regulations. (The Access Management Regulations provide that, if the property owner purchased a drainage pipe for the entrance, the property owner may request that VDOT install the pipe. If VDOT installs the pipe, the property owner shall pay the cost of installation. This revised practice ensures that maintenance forces are not taken away from necessary roadwork and funds are not drained from the construction budget for each county’s secondary roads.)
- Logging permits** – The proposed version of the regulation replaced blanket permits for logging with single-use permits. The intent was to better ensure adequate sight distance at the entrance and provide the opportunity for VDOT to better monitor the entrance for proper installation and maintenance. Feedback provided by the logging industry during the public comment period indicated that this was not a feasible change and that the administrative burden imposed on VDOT and industry by requiring single-use permits outweighed the potential benefits. The final version of the regulation allows loggers to apply for district-wide permits.
- In place permits** - These permits can be issued for utilities located within a subdivision without plan and full permit submittal. These one-page permits provide VDOT with the necessary information without inundating VDOT offices and utility companies with unneeded paper.

Generally, most of the changes from the *Land Use Permit Manual* to the *Land Use Permit Regulations* fall into three categories:

- Eliminating redundant or obsolete text to improve the user-friendliness of the regulation;
- Updating the regulation to reflect VDOT permit administration procedures and other guidance that have always been in effect, but not necessarily addressed explicitly in the regulation; or
- Addressing subjects resulting from new technology, regulations, and rules from parties external to VDOT that were not in existence when the regulation was last amended.

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.

Issues include the following:

- 1) The primary advantage to the public of promulgating the *Land Use Permit Regulations* is the emphasis on providing an up-to-date and more flexible regulatory resource for utilities, developers, and others to use.

The increase in fees may be considered a disadvantage; however, fees have not been increased in over 20 years. The increased fees will offset some of the costs incurred in VDOT’s permit review, issuance, and inspection processes and free up scarce resources.

2) The primary advantage to VDOT and the Commonwealth is essentially the same as that to the public – the *Land Use Permit Regulations* provide an up-to-date and clarified resource concerning the issuance of permits for all parties involved in the permitting process, including VDOT personnel. VDOT will be able to perform its mission with greater efficiency and effectiveness, while addressing the concerns of stakeholders, including utilities and the land development industry, and preserving the safety and integrity of the transportation infrastructure. In addition, VDOT will benefit from the update of the fees to help offset VDOT’s costs.

The only disadvantage to VDOT or the Commonwealth is in the time and expense to VDOT to implement the changes, through a combination of training and publicizing the replacement regulation, etc. However, VDOT believes that the benefits from an updated regulation outweigh this disadvantage.

3) Pertinent matters of interest to the regulated community, government officials, and the public have been addressed as a result of the promulgation of this replacement regulation and the repeal of the existing one through the Administrative Process Act.

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
Title	Title was “Land User Permit Manual.”	Title changed to “Land User Permit Regulations.”	To differentiate the proposed regulation from existing regulation.
10	Defined “AASHTO.”	Removed the definition of “AASHTO.”	This term is used once in the regulation; the acronym is spelled out when it is used.
10	Defined “boring.”	Changed “mucked” to “forced” and “direction” to “directional” in the definition of “boring.”	Clarification and correction.
10	Defined “carrier” as transmitting “fluid (liquid or gas).”	Changed definition for “carrier” as transmitting “liquid or gas.”	Correction.
10	None.	Defined “Central Office Permit Manager.”	To reflect transfer or responsibilities within the VDOT organization.
10*	Defined “Class G,” “Class P,” and “Class T” utilities.	Removed definitions of utility classes.	VDOT determined there was no need to differentiate between types of utilities. Public comments supported this determination.
10	Included a revision date and “for document information” in the reference to the Road Design Manual in the definition of “clear zone.”	Removed the revision date and “for document information” from the reference to the Road Design Manual in the definition of “clear zone.” Made minor changes to definition of “clear zone.”	To improve consistency. Version and revision dates of documents may be found in the documents incorporated by reference section. Amended definition to improve clarity.
10	Defined “CFR (Code of Federal Regulations).”	Changed to “Code of Federal Regulations” or “CFR.”	To be consistent with the Registrar’s Style Manual.
10	Defined “commercial entrance.”	Changed definition of “commercial entrance” to provide additional clarity.	To improve clarity.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	None.	Added a definition for "Commonwealth Transportation Commissioner."	This term is used throughout the regulation and needed to be defined.
10	Defined "comprehensive agreement."	Removed definition for "comprehensive agreement."	The one use of this term in the proposed version was removed from the final version of the regulation; therefore, the term does not need to be defined.
10	Definition of "crossing" included "a skew of no <i>more</i> than 60 degrees."	Changed to "a skew of no <i>less</i> than 60 degrees."	Correction.
10	None.	Defined "district administrator."	Land use functions have been transferred within the VDOT organizational structure from the residency to the district level.
10	None.	Defined "district administrator's designee."	Land use functions have been transferred within the VDOT organizational structure from the residency to the district level.
10	Defined "functional area."	Removed definition of "functional area."	"Functional area" was a term used in Part IV, which was removed and promulgated separately as the Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73). The term is no longer used in the regulation.
10	Defined "median."	Changed definition of "median" to conform to the definition of "median" in the Access Management Regulations: Principal Arterials (24 VAC 30-72).	For consistency across VDOT's land use regulations.
10	Defined "permit."	Changed definition of "permit."	Grammatical correction.
10	Defined "private entrance."	Changed definition of "private entrance" to conform to the definition of "private entrance" in the Access Management Regulations: Principal Arterials (24 VAC 30-72).	For consistency across VDOT's land use regulations.
10	Defined "private subdivision road or street."	Removed definition of "private subdivision road or street."	This term was not used in the regulation.
10	Defined "relocate" as a noun.	Changed definition of "relocate" to be a verb.	Grammatical correction.
10	Defined "residency" and "residency administrator."	Removed definitions of "residency" and "residency administrator."	Land use functions have been transferred within the VDOT organizational structure from the residency to the district level.
10	Defined "right-of-way."	Changed "traveled way" to "travel way" and provided that right-of-way included permanent easements in the definition of "right-of-way."	To improve clarity.
10*	Defined "storm sewer."	Removed "Storm sewer systems are not utilities" from the definition of "storm sewer."	For purposes of the regulation, storm sewer systems are considered "utilities" because they may be placed on or under VDOT right of way.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10*	Defined "underground utility facilities."	Removed the specification in the definition of "underground utility facilities" that underground utility facilities be used "in connection with the storage or conveyance of materials."	Proposed definition referred narrowly to facilities such as water and sewer utilities; final definition includes utilities such as telecommunications.
10	Defined "VDOT" to include the Commissioner or a designee.	Removed "or a designee" of the Commissioner from the definition of "VDOT."	The final regulation defines "Commissioner" to include a designee; therefore, the inclusion of "or a designee" in this definition is redundant.
10	Defined "vent" as discharging from a casing.	Defined "vent" as discharging from a casing or carrier pipe.	Revised to provide more detail.
20	Used 24 VAC 30-20 to reference the General Rules and Regulations of the Commonwealth Transportation Board.	Changed the reference to "see 24 VAC 30-151-760."	To standardize references to regulations and documents incorporated by reference.
20	Referenced the Administrative Process Act.	Corrected reference to the Administrative Process Act.	Correction in accordance with the Registrar's Style Manual.
20	<i>Agents</i> of VDOT were authorized to issue permits.	<i>Employees</i> of VDOT were authorized to issue permits.	Correction.
30	N/A	Changed the lettering and numbering of subsections and subdivisions.	To be consistent with the Registrar's Style Manual.
30 A*	Proposed subsection 30 1 listed four conditions for which a permit is required.	Listed five conditions for which a permit is required. Removed details regarding utility activities. Added surveying operations as a condition.	Utility activities in this section are discussed in detail under districtwide permit requirements in subdivision 30 C 1; more detailed list of conditions provides greater information.
30 B	Proposed subsection 30 1 required a single use permit for all activities within the VDOT right of way.	Required a single use permit for all activities not covered by a district wide permit.	Clarification of requirements.
30 B	Subsection 30 1 provided that all permits issued pursuant to the regulation are single use unless otherwise noted.	Removed this provision.	The provision is unnecessary since single use and districtwide permit conditions are discussed in detail.
30 B*	None.	Provided that the district administrator's designee is responsible for issuing single use permits, except tree trimming and removal permits. Added provisions regarding the size of the area covered by a single use permit. Specified actions for which a single use permit is required even when the activities are covered by a district wide permit.	To provide greater detail concerning administration of permits and greater flexibility in assigning responsibility for permit issuance.

Section number	Requirement at proposed stage	What has changed	Rationale for change
30 C*	Proposed subsection 30 2 established requirements related to residency wide permits. Provided that residency wide permits may be issued for utility work and surveying under certain conditions.	Established requirements related to district wide permits, including the authority of the central office permit manager to issue them; activities for which a district wide permit may be issued; utility, logging, and surveying activities for which a single use permit is also required; and conditions under which district wide permits may be revoked.	To provide greater detail concerning permit requirements and authority.
30 D	Proposed subsection 30 3 established requirements related to in-place permits on <i>subdivision</i> streets.	Established requirements related to in-place permits on <i>secondary</i> streets. Corrected "in-place" as "shall be in place."	To reflect current terminology.
30 D	Proposed subsection 30 3 provided that no fee is required for an in-place permit.	Removed provision regarding fees for in-place permits.	All information regarding fees has been consolidated in section 710 (Fees) of the regulation. (In-place permits will still be issued at no fee.)
30 E*	None.	Established requirements for prior-rights permits.	To address situations where transportation improvements occur in an area where there are existing utilities that are not in conflict with those improvements.
30 F*	None.	Established requirements for as-built permits.	To address situations where transportation improvements occur in an area where there are existing utilities that require relocation.
30 G	Proposed subsection 30 4 described conditions under which a utility may be required to enter an agreement with VDOT to use right-of-way in exchange for monetary compensation, <i>barter</i> , or both.	Described conditions under which a utility may be required to enter an agreement with VDOT to use <i>limited access</i> right-of-way in exchange for monetary compensation, <i>exchange of goods or services</i> , or both.	Clarification of conditions. Minor changes in wording for clarity and to reflect that the regulation no longer differentiates between types of utilities.
30 G 1 a	Required a permit agreement for any new longitudinal occupancy of the limited access right-of-way.	Required a permit agreement for any new longitudinal occupancy of the limited access right-of-way where none have existed before.	To clarify that a permit agreement is not required in those circumstances when there are already existing utilities.
30 G 1 a	Referenced section 320 of the regulation.	Changed reference to section 310.	Section 320 was removed.
30 G 1 b	Referenced section 320 of the regulation.	Removed reference to section 320.	Section 320 was removed.
30 G 1 c*	None.	Required a permit agreement for any perpendicular crossing of a limited access right of way.	To provide greater detail on permit requirements.
30 G 1	Required that all agreements <i>and attachments</i> specify terms and conditions.	Required that all <i>permit</i> agreements specify terms and conditions.	To remove an unnecessary distinction between agreements and attachments.
30 G 1	Proposed subdivision 30 4 a (2) provided that the Commissioner or a designee determines whether compensation is proper.	Removed reference to the designee.	Definition of Commissioner includes a designee.

Section number	Requirement at proposed stage	What has changed	Rationale for change
30 G 2	Proposed subdivision 30 4 b provided that the Commissioner or a designee determines whether compensation is proper.	Removed reference to the designee.	Definition of Commissioner includes a designee.
40 A	Provided that the residency administrator has the authority to approve land use permits, except for tree trimming permits.	Provided that the central office permit manager or district administrator's designee has the authority to issue land use permits.	To reflect transfers of functions within the VDOT organization.
40 A	None.	Provided that only the Commissioner may issue permits for communication facility towers.	To provide greater detail on permit authority.
40 A	Provided that the Commissioner or a designee shall approve all activities within limited access right-of-way prior to permit issuance.	Removed reference to the designee.	Definition of Commissioner includes a designee.
40 B	Provided that all land use permit applications be submitted to the local residency.	Provided that district wide permit applications be submitted to the central office permit manager and single use permit applications be submitted to the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
40 B	Provided for consolidation of work on multiple routes within one residency into one permit application.	Provided for consolidation of work on multiple routes within one jurisdiction into one permit application. Limited consolidation for a single use permit to a length of no more than two miles.	To reflect transfers of functions within the VDOT organization. To differentiate between single use and district-wide permit requirements.
40 B	Provided that VDOT retains the authority to deny or revoke a land use permit under certain conditions.	Provided that VDOT retains the authority to deny <i>an application for</i> or revoke a land use permit under certain conditions.	To clarify that it is the application (rather than the actual permit) that may be denied.
40 C	Required that any existing utilities in relation to the permittee's work be shown on the permit.	Required that any existing utilities within close proximity of the permittee's work be shown on the permit.	Clarification. To minimize impact on the right of way, prevent utility damage, and promote safety.
40 C	Required that the method of construction be shown on the permit.	Removed this requirement.	The requirement is unnecessary since the provision indicates installations are to be constructed as shown on permit or accompanying sketch.
40 D*	Required the permittee to obtain verbal authorization from the residency administrator to respond to an emergency, provided an application for a permit is submitted within 48 hours of the end of the emergency.	Allowed the permittee to proceed with addressing the emergency without authorization, provided the permittee contact the VDOT Emergency Operations Center within 48 hours of the end of the emergency.	To recognize that prompt action in such a situation may not be compatible with getting prior authorization; for safety and public welfare reasons, discretion was granted to address the emergency, provided VDOT is contacted within a reasonable time frame.
40 E	A permit is not valid unless signed by the residency administrator.	A permit is not valid unless signed by the central office permit manager or the district administrator's designee.	To reflect transfers of functions within the VDOT organization.

Section number	Requirement at proposed stage	What has changed	Rationale for change
40 F	Residency administrator may require proof of insurance.	Central office permit manager or the district administrator's designee may require proof of insurance.	To reflect transfers of functions within the VDOT organization.
40 G	Required that facilities be placed to avoid damage within the right of way.	Required that facilities be placed to avoid damage to VDOT and other facilities within the right of way.	To provide clarity.
40 G*	VDOT will not be responsible for damage to the facility placed under permit as a result of future maintenance or construction activities performed by VDOT.	Removed this provision.	The permittee should not be responsible for damage caused by VDOT if the terms and conditions of the permit are followed.
40 H	A copy of the permit and associated materials must be kept at the job site.	A copy of the permit and associated materials must be maintained at every job site.	To address situations where a permit covers multiple job sites.
40 H	Required that changes to a permit be coordinated through and approved by the residency administrator.	Required that changes to a permit be coordinated through and approved by the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
40 I	Required that a permittee schedule all work performed within a construction project with the contractor.	Required that a permittee coordinate and schedule all work performed within a construction project with the contractor.	Clarification.
40 J	Required the permittee to keep all disturbances to a minimum during <i>construction</i> activities.	Required the permittee to keep all disturbances to a minimum during <i>permitted</i> activities.	Permitted activities may be other than construction.
40 J	Referenced the Virginia Stormwater Management Program Permit Regulations.	Corrected reference to the Virginia Stormwater Management Program Permit Regulations.	To standardize references to regulations and documents incorporated by reference.
40 K	N/A	Corrected punctuation and references to regulations and other documents.	To correct and standardize references to regulations and documents incorporated by reference.
40 K 2	Required that all stormwater and non-VDOT issued permits be kept on permitted areas.	Required that all stormwater and non-VDOT issued permits be posted at every job site.	To address situations where a permit covers multiple job sites.
40 K 5	Required the permittee to cut pavement only as approved by the residency administrator.	Required the permittee to cut pavement only as approved by the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
40 K 5	Referenced Form LUP-OC.	Removed reference to Form LUP-OC.	Unnecessary reference.
40 K 6*	None.	Required that land disturbance activities comply with all federal, state, and local regulations. Stipulated when boring would be deemed a land-disturbing activity.	To provide greater detail concerning permit requirements.
40 K 8*	Required written permission prior to placing excavated materials on the pavement.	Changed the text to allow permission to be in writing or electronic form.	To comply with the provisions of Chapter 85 of the Acts of Assembly of 2009.
40 L	Required as-built plans and profiles to be submitted to VDOT unless waived by the residency administrator.	Required as-built plans and profiles to be submitted to VDOT unless waived by the district administrator's designee.	To reflect transfers of functions within the VDOT organization.

Section number	Requirement at proposed stage	What has changed	Rationale for change
40 M	Required that all work comply with the Rules for Enforcement of the Underground Utility Damage Prevention Act.	Required that all work comply with the Underground Utility Damage Prevention Act (§ 56.265.14 et seq.) and the Rules for Enforcement of the Underground Utility Damage Prevention Act. Corrected references.	To provide greater detail and more accuracy concerning permit requirements.
40 M	Required the permittee to contact the local VDOT residency prior to excavation within 1,000 feet of traffic signals or adjacent to VDOT utilities.	Required the permittee to contact the district administrator's designee prior to excavation within 1,000 feet of traffic signals or adjacent to VDOT utilities.	To reflect transfers of functions within the VDOT organization.
40 M	Provided that "VDOT shall receive notification."	Provided that "[t]he permittee shall notify VDOT."	Clarification. To ensure that the right of way is restored to its original condition and to ensure permit holder is complying with the condition of the permit.
40 N*	Required prior permission of the residency administrator before blocking or detouring traffic. Required permission to be written.	Required prior permission of the district administrator's designee before blocking or detouring traffic. Changed the text to allow permission to be in writing or electronic form.	To reflect transfers of functions within the VDOT organization. To comply with the provisions of Chapter 85 of the Acts of Assembly of 2009.
40 N 1	Required that the permittee employ safety measures "such as" certified flaggers, adequate lights and signs.	Changed "such as" to "including, but not limited to."	To clarify that the listed safety measures are not the only safety measures that shall or may be employed.
40 N 2	N/A	Corrected references to regulations.	To standardize references to regulations and documents incorporated by reference.
40 N 2	Referenced the "MUCTD."	Corrected to "MUTCD."	Correction.
40 N	Failure to employ proper traffic control and construction standards shall be cause for revocation of the permit.	Moved this provision to section 50 in the final version.	To move the requirement to a more appropriate place in the regulation.
40 P*	Required the permittee to be responsible for settlement in backfill or pavement for three years following completion, and for maintaining the facilities.	Required the permittee to be responsible for settlement in backfill or pavement for two years following completion, and for maintaining the facilities. Added provisions for reducing the warranty period to one year.	Revised requirement based on application of sound engineering principles and to provide more flexibility to the regulated community. This change was made in response to public comments.
40 Q	Required the permittee to notify the VDOT residency of a personal or vehicular accident immediately.	Required the permittee to notify the VDOT official who issued the permit immediately of any personal or vehicular accident at the work site.	Clarification. To reflect transfers of functions within the VDOT organization.
40 S	Required notification of the residency within 48 hours in advance of the start of permitted work.	Required notification of the office issuing the permit prior to start of the permitted work or any non-emergency excavation.	To reflect transfers of functions within the VDOT organization.

Section number	Requirement at proposed stage	What has changed	Rationale for change
40 T	Required the permittee to notify the residency administrator upon completion of the work. Required the residency administrator to inspect the work and advise the permittee of any needed corrections.	Required the permittee to provide notification to the district administrator's designee upon completion of the work, requesting inspection. Required the district administrator's designee to schedule the inspection and advise the permittee of any necessary corrections.	To provide flexibility for reassignment of inspection.
50 A	Section 33.1-373 of the Code of Virginia shall govern the placement of advertising signs.	Section 33.1-373 of the Code of Virginia shall govern the removal of advertisements.	Correction.
50 A	None.	The provisions of § 33.1-375 of the Code of Virginia shall govern the removal of other signs from within the right-of-way.	To clarify that an object placed within the right of way without a permit will be removed at owner's expense.
50 B	Permittee will be civilly liable for violation of any of the preceding rules.	Permittee will be civilly liable for violation of any of the rules of the chapter.	Correction.
50 C	None.	Failure to employ proper traffic control and construction standards shall be cause for revocation of the permit.	Text moved from subsection 40 N in the proposed version.
50 D	None.	Added a reference to section 30 for violations related to specific district-wide permit types.	To reference rules and conditions of the district wide permit that are to be followed by the permit holder.
60	Catchline was "Authority of residency administrator."	Catchline changed to "Authority of district administrator's designee."	To reflect transfers of functions within the VDOT organization.
60	Described authority of the residency administrator.	Described authority of the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
70*	Described the roles of the permittee and the residency administrator in plan review and inspection.	Described the plan review and permit inspection process for permit requests of an extraordinary nature or extent.	This provision was initially intended to apply only to permit requests of an extraordinary nature or extent. The revisions clarify that intent and reflect transfers of functions within the VDOT organization.
80 A	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
80 A	None.	Provided that the length of time for activity under a permit should generally not be less than six months.	To provide additional information.
80 A	Required that work begin within 30 days of permit issuance.	Moved to subsection 80 C in the final version.	To move the requirement to a more appropriate place in the regulation.
80 B	Included provisions regarding extensions of permits and failure of the permittee to commence work on time.	Added detail to the provisions regarding extensions of permits and failure of the permittee to commence work on time.	To provide additional detail on permit requirements.
80 C	None.	Provided that work shall begin within 30 calendar days of permit issuance and contained provisions in the event that work does not begin within that time.	Text moved from subsection 80 A in the proposed version.

Section number	Requirement at proposed stage	What has changed	Rationale for change
90*	Established 9:00 AM to 3:30 PM Monday through Friday as work hours for all permits.	Established 9:00 AM to 3:30 PM Monday through Friday as work hours for all single use and district wide permits on arterial and collector roads. Established unrestricted work hours for local roads.	To provide additional detail on permit requirements. To allow for greater flexibility with respect to work hours on local roads. This change was made in response to public comments.
90*	Prohibited work during certain holiday periods.	Prohibited nonemergency work during certain holiday periods.	To provide more flexibility to perform emergency work.
90	Allowed the residency administrator to set alternate work hours.	Allowed the district administrator's designee to set alternate work hours and days for single use permits and the central office permit manager to set alternate work hours and days for district wide permits.	To reflect transfers of functions within the VDOT organization.
100	Provided a process for the permittee to appeal decisions.	Provided a process for the applicant or the permittee to appeal decisions.	Correction. An applicant denied a permit is not a permittee but should still be able to avail themselves of the appeals process.
100	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
100	Authorized the district administrator to rule on differences of opinion between the permittee and the residency administrator.	Authorized the district administrator to rule on differences of opinion between the permittee and the district administrator's designee related to single use permits on nonlimited access highways.	To reflect transfers of functions within the VDOT organization.
100	N/A	Moved text regarding appeal to the Commissioner (and removed reference to the designee) for permits on limited access highways to later in the section.	To better explain the appeals process.
100*	Required the permittee to appeal within 10 working days of receipt of written denial or revocation.	Required the permittee to appeal within 30 calendar days of receipt of written denial or revocation.	This change will help ensure consistent appeals timelines across VDOT land use regulations.
100*	None.	Provided the district administrator with 60 calendar days to rule on the appeal.	To provide the permittee with a time in which to expect a response.
100	Allowed the permittee to appeal the district administrator's decision to the Commissioner or a designee.	Allowed the permittee to appeal the district administrator's decision to the Commissioner.	The final regulation defined "Commissioner" to include a designee; therefore, the inclusion of "or a designee" in this definition is redundant.
100*	Required that all correspondence include copies of prior correspondence with VDOT officials and county officials.	Removed requirement to include correspondence with county officials.	To streamline appeal requirements.
100*	None.	Established a separate appeals process for district wide permits.	To reflect transfers of functions within the VDOT organization.
100*	None.	Established a separate appeals process for permits for limited access highways and for decisions of the district administrator and division administrator.	The proposed regulation did not describe the actual appeals process when it went to the Commissioner.

Section number	Requirement at proposed stage	What has changed	Rationale for change
110 B	Contained a reference to "a VDOT designee."	Specified the personnel as the Commissioner, central office permit manager, district administrator, or district administrator's designee.	To clarify that the personnel may include the VDOT employee assigned by the district administrator to supervise land use permit activities and issue permits.
120	Catchline was "Introduction to provisions governing entrances."	Catchline changed to "Provisions governing entrances."	To better reflect the content of the section.
120	Contained references to several laws, regulations, and specifications.	Updated references to statute and regulations.	To reflect current law and regulation.
130 – 210*	Contained provisions governing entrances.	All sections marked "Reserved."	Provisions governing entrances are now contained in the Access Management Regulations: Principal Arterials (24 VAC 30-72), which became effective July 1, 2008, and Access Management Regulations: Minor Arterials, Collectors, and Local Streets, which is to become effective October 14, 2009. Sections are marked "Reserved" to show VDOT's intent to merge the access management regulations into the Land Use Permit Regulations.
220 B	Agreements may be revoked for cause or "as outlined above."	Added a specific reference to subdivision A 1 of this section rather than "above."	Clarification.
220 C	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
220 D	Contained a reference to subsection B.	Changed reference to subsection C.	Correction.
230 B	N/A	Changed "—" to "is" or "are" or deleted the dash mark.	To improve understanding of the subsection.
230 C	Agreements may be revoked for cause or "as outlined above."	Added a specific reference to subsection B of this section rather than "above."	Clarification.
230 D	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
240 A*	VDOT may permit dams, including dams for farm ponds.	VDOT may permit dams for farm ponds.	To provide a more precise statement of permit conditions.
240 A*	None.	Added a provision that the Soil and Water Conservation District will coordinate approvals for requests for farm ponds.	To provide more detail on responsibility for coordination of these requests.
240 A	Established conditions under which a roadway is considered to <i>occupy a dam</i> .	Established conditions under which a roadway is considered to <i>accommodate a farm pond dam</i> .	To provide a more precise description of subject matter.
240 C*	Included requirements for design review.	Required that all other roadway occupation of dams be in accordance with the Secondary Street Acceptance Requirements (24 VAC 30-92).	To reflect promulgation of SSAR regulation, effective July 1, 2009.

Section number	Requirement at proposed stage	What has changed	Rationale for change
None*	Proposed subsection D included requirements for supplemental, alternate access.	Removed from this regulation.	Subject covered in Secondary Street Acceptance Requirements (24 VAC 30-92), effective July 1, 2009.
None*	Proposed subsection E required that all federal and state permits be filed with the county prior to VDOT's approval.	Removed from this regulation; referred to Secondary Street Acceptance Requirements	Subject covered in Secondary Street Acceptance Requirements (24 VAC 30-92), effective July 1, 2009.
250	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
270 4	Required the permittee to notify VDOT of any transfer of ownership of the crossing.	Same requirement. Rephrased for clarity.	Changed phrasing for clarity. Requirement remains the same.
280	N/A	Struck "the."	Correction.
280	Referenced the Commissioner's designee.	Removed reference to Commissioner's designee.	Definition of Commissioner includes a designee; therefore, "or a designee" is redundant.
290	Allowed for public telephones "when definite needed is shown by VDOT."	Allowed for public telephones when "definite need is documented."	Correction.
290	Used the word "providing."	Changed to "provided that."	Correction.
300	None.	Added introductory sentence that the provisions apply to utility installations on all highway rights of way.	Clarification.
300	N/A	Changed letters to numbers.	To be consistent with the Registrar's Style Manual.
300 1	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
300 2*	None.	Added requirement that all temporary attachment structures be approved by VDOT.	To provide additional detail on permit requirements.
300*	None.	Added items 3 through 7, which included requirements related to responsibility for damage to structures, continuing maintenance, conflicts with existing utilities, attachment of utilities to bridges, and encasement.	To provide additional detail on permit requirements. Provision regarding attachment of utilities to bridges was moved from proposed subdivision 330 1 c.
310	Catchline was "Limited access highways – Above and underground installations."	Catchline changed to "Utility installations within limited access highways."	Catchline revised to be consistent with new introductory clause.
310	None.	Added an introductory sentence that the provisions apply to utility installations on all limited access highways.	To provide clarity.
310 1	None.	Utility installations within limited access right-of-way shall be reviewed and approved by the Commissioner.	To provide more detail on permit authority; Commissioner already approves new utility installations.

Section number	Requirement at proposed stage	What has changed	Rationale for change
310 2	New utilities will not be permitted to be installed parallel to the roadway longitudinally within the controlled or limited access right-of-way lines, except that in special cases or under resource sharing agreements such installations may be permitted under strictly controlled conditions and then only with approval from the Chief Engineer.	Changed "Chief Engineer" to "Commissioner."	To be consistent with provisions delegating authority by the Commissioner to the appropriate personnel.
310	Subdivisions 310 A 1-4 contained provisions regarding aboveground utilities.	Changed the phrasing and organization of the text. Requirements remain the same.	Changed phrasing and organization for clarity. Requirements remain the same.
310	Subsection 310 B contained provisions regarding underground utilities.	Changed the phrasing and organization of the text. Requirements remain the same.	Changed phrasing and organization for clarity. Requirements remain the same.
310 3*	Proposed subsection A provided that overhead utilities may be installed on limited access right-of-way by a utility under a shared resources agreement subject to certain conditions.	Overhead and underground utilities may be installed within limited access right-of-way by a utility company under an agreement that provides for a shared resource arrangement subject to VDOT's need for the shared resource.	Added provisions to allow VDOT to evaluate its need for a shared resource and decline to enter a shared resources agreement if no need for the resource is identified.
310 4-9*	None.	Added provisions related to location of longitudinal installations, minimum vertical clearance, minimum cover, overhead crossings, and access control.	Provides more detail on permit requirements.
320	Contained provisions regarding "Limited access highways - Communication towers and site installations."	Section has been removed and its content has been incorporated into section 30 (permits and agreements).	Section 30 was a more appropriate place for these requirements. A utility may be required to enter an agreement with VDOT to use the limited access right-of-way in exchange for monetary compensation or services.
330	Catchline was "Nonlimited access highways – above ground installations."	Catchline changed to "Overhead utility installations within nonlimited access highways."	Catchline revised to be consistent with revised catchline in section 310.
330	N/A	Corrected lettering and numbering.	To be consistent with the Registrar's Style Manual.
330 A	Used the term "line crossings."	Changed to "overhead utility crossings."	More precise term used for clarity.
330 A	Used the term "parallel installations."	Changed to "longitudinal installations."	More precise term used for clarity.
330 A	Required installations to be as near as <i>practicable</i> to the right of way.	Required installations to be as near as <i>possible</i> to the right of way.	More common word used for clarity.
330 B 1	Proposed subdivision 1 a provided that "Overhead utilities may be installed by a Class G utility under permit."	Provided that "Overhead utilities may be installed <i>within nonlimited access right-of-way</i> by a utility <i>company</i> under permit, <i>including a districtwide permit</i> ."	To provide more detail on permit requirements and remove references to classes of utilities.

Section number	Requirement at proposed stage	What has changed	Rationale for change
330 B 1	Proposed subdivision 1 b included provisions for Class P and Class T utilities.	Removed provisions specific to Class P and Class T utilities.	The regulation no longer classifies utilities.
330 B 1	Proposed subdivision 1 c included provisions regarding attachment of utilities to bridges.	These provisions were moved to section 300 (utilities on all rights of way) and subdivision 340 3 (underground utilities) in the final version.	The provisions were moved to section 300 and subdivision 340 3 in the final version for clarity and to improve organization of the regulation.
330 B 2	Proposed subdivision 1 d used the term "aboveground mounted installations."	Changed to "overhead installations."	Clarification to cover all types of overhead utility installations and to be consistent with the terminology used throughout the regulation.
330 B 2	None.	Excluded communications towers from location requirements of this subdivision.	Towers do not have overhead lines installed over the right of way.
330 D*	None.	Required longitudinal pole line installation to be located on the outer 15 feet of the right-of-way greater than 40 feet in width.	To provide more detail on permit requirements.
330 E	Proposed subsection 3 used the word "nearly."	Changed to "near."	Correction.
330 F*	Proposed subsection 4 related to overhead installations.	Related to <i>new</i> overhead installations. Required new overhead installations crossing existing or proposed nonlimited access highways to provide a minimum of 18 feet of vertical clearance or a minimum height as established by the National Electric Safety Code, whichever is greater.	Requirements for new and existing overhead installations are now addressed in separate subdivisions. Adjusted overhead height requirements in response to public comments.
330 G*	None.	Created a separate requirement for existing overhead installations.	Requirements for new and existing overhead installations are now addressed in separate subdivisions.
330 H*	None.	Added a requirement related to vertical clearance for new overhead installations.	To provide more detail on permit requirements.
330 I*	Proposed subsection 5 included a provision regarding parallel pole lines on nonlimited access right of way under a comprehensive agreement.	Removed this provision.	Provision was removed based on the determination that a comprehensive agreement was not necessary for the installation of parallel pole lines on nonlimited access right of way.
330 I	None.	Added the word "overhead" in between "other" and "facilities."	Clarification.
340	Catchline was "Nonlimited access highways - Underground installations."	Catchline changed to "Underground utility installations within nonlimited access highways."	Revised catchline to be consistent with previous ones concerning utility installations.
340 1	"Underground utilities may be installed by a <i>Class G</i> utility under permit."	"Underground utilities may be installed <i>within nonlimited access right-of-way</i> by a utility <i>company</i> under permit, <i>including a districtwide permit.</i> "	The regulation no longer classifies utilities.

Section number	Requirement at proposed stage	What has changed	Rationale for change
340	Proposed subsection 2 included provisions for Class P and Class T utilities.	Removed provisions specific to Class P and Class T utilities.	The regulation no longer classifies utilities.
340 2*	Proposed subsection 3 required all underground utilities to have a minimum of 36 inches of cover.	Specified that the requirement is for underground utilities within VDOT right of way. Provided an exception for cable and telecommunications cables, which may have 30 inches of cover.	Revised requirement based on application of sound engineering principles and to provide flexibility to the regulated community.
340 2*	None.	Authorized the district administrator's designee to grant exceptions where the permittee encounters obstacles.	To provide more detail on permit authority and to provide flexibility to the regulated community.
340 3	Proposed subsection 4 included provisions regarding attachment of underground utilities to structures.	Moved requirements from proposed subdivision 330 B 1 c that the utility will not interfere with VDOT's ability to maintain the bridge or other structure, will not impact the durability and operational characteristics of the bridge or other structure, and the attachment method must be approved by VDOT.	Reorganization of text to improve clarity and understanding of the regulation.
340 4	Proposed subsection 5 used the term "residency administrator."	Changed the term to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
340 5*	None.	Added a provision regarding installation of underground utilities in medians.	To provide more detail on permit requirements.
340 6*	None.	Added a provision regarding installation of underground utilities under sidewalk areas.	To provide more detail on permit requirements.
350	Communication towers and certain site installations may be installed under permit.	The content of this section has been incorporated into section 40.	This section has been incorporated into section 40.
360*	Required 36 inches of cover unless conditions dictate otherwise.	Removed allowance for lesser cover.	Revised requirement based on application of sound engineering principles.
360	Used the term "parallel pipeline installation."	Changed to "longitudinal pipeline installation."	More precise term used for clarity.
360*	Included requirements related to minimum depth, compaction, and restoration when installations cannot be kept out of ditch lines. Allowed pipelines to be constructed in median or sidewalk areas under certain conditions.	Removed specific provisions relating to compaction and restoration of pipeline installations within ditch lines. Restoration requirements were relocated to subsection 40 P. Added clarifications for locating utilities within the pavement area or ditch lines.	Removal of specific provisions to provide additional flexibility to the regulated community. Movement of restoration requirements and clarifications to improve organization of the regulation.
360	Required the permittee to certify in writing, upon request by VDOT, that no asbestos cement encasement or pipe has been used.	Required the permittee to certify in writing, upon request by VDOT, that no asbestos cement encasement or pipe has been used.	Changed phrasing for purposes of clarity. No change in requirement.
360	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
370	Catchline was "Encasements."	Catchline changed to "Encasement requirements."	To better reflect the purpose of the section.
370	N/A	Added letters A and B.	To break up the section into subsections.

Section number	Requirement at proposed stage	What has changed	Rationale for change
370 A	Contained requirements for encasement pipe.	Rephrased requirements for encasement pipe.	Changed phrasing for purposes of clarity. No change in requirement.
370 A	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
370 A*	Authorized the residency administrator to authorize directional bores without encasement.	Removed this provision.	Removed discretionary authority to ensure consistent treatment of permittees across the state.
370 B*	None.	Added provisions for uncased crossings.	Specific provisions relating to pressurized pipelines were added at the request of industry.
380 B	Required positive drainage.	Rephrased requirement regarding positive drainage.	Changed phrasing for purposes of clarity. No change in requirement.
380 D	Required manholes to be minimized at intersections and prohibited manholes in the wheel path of driving.	Required every effort to be taken to minimize manholes at intersections and in the wheel path of driving.	To provide more flexibility for regulated entities while still minimizing interference to traffic movement.
380 E*	Required manholes to be within a tolerance of +/- 0.05 feet.	Required manholes to be flush with the surface.	To ensure even road surface for vehicle movement.
380 E	None.	Required manholes in sidewalk areas to be ADA compliant.	To provide more detail on permit requirements.
390	Catchline was "In-place permits for new subdivision streets."	Catchline changed to "In-place and prior-rights permits."	Catchline changed to address inclusion of new subsection B.
390 A	Contained a phrase that implied the public utility owner accepted streets into the state system.	Corrected this phrase.	Grammatical correction for correctness.
390 A	Made the utility owner responsible for injury or damage.	Clarified that the utility owner was responsible for injury or damage that might result from the presence of the utility.	Clarification.
390 B*	None.	Created a new subsection B related to in-place permits.	To provide more detail on permit requirements.
400	Contained a provision that, if VDOT required a utility company to alter, change, adjust, or relocate a utility, the cost would be borne by the Commonwealth.	Removed this provision.	The provision has been rewritten and clarified in section 390.
410	Catchline was "Installations in scenic areas."	Catchline changed to "Utility installations in scenic areas."	Clarification.
420	Catchline was "Roadway lighting facilities."	Catchline changed to "Lighting facilities."	Catchline revised because nonroadway lighting is discussed in section 420.
420 A*	None.	Added statement that lighting facilities are not considered a utility.	Clarifies that utility provisions do not apply to lighting facilities.

Section number	Requirement at proposed stage	What has changed	Rationale for change
420 B	N/A	Updated and corrected references to documents incorporated by reference. Spelled out acronym AASHTO.	An Informational Guide for Roadway Lighting was replaced by the Roadway Lighting Design Guide. To standardize references to regulations and documents incorporated by reference. AASHTO is no longer a defined term.
420 C	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
420 D	N/A	Added a letter D to existing text.	Formatting change.
430 B	Used the words "whichever is applicable."	Changed to "as applicable."	To streamline regulatory text.
430 F	Used the term "transmission natural gas."	Changed to "natural gas."	To streamline regulatory text.
440	N/A	Corrected reference to a regulation.	To standardize references to regulations and documents incorporated by reference.
440	None.	Specified that the permit constitutes VDOT's permission to use the right-of-way.	Clarification.
450	VDOT may issue permits for banners, etc. across state highways.	Required that an applicant obtain a permit prior to hanging a banner, etc. across a state highway.	To clarify responsibility of localities to obtain permit.
450	Banners, etc. may not remain in place longer than 30 days.	Banners, etc. may not remain in place longer than 30 <i>calendar</i> days.	To ensure consistent terminology across regulations.
460	Required approval of the residency administrator after completion of an investigative report (Form LUP-HM) prior to a building movement.	Required a single use permit prior to a building movement. The permit application must be accompanied by the investigative report (no reference to a form) and route certification documents.	To reflect transfers of functions within the VDOT organization; reference to the form is not necessary when "route certification documents" is used.
460	Required application of the building movement permit be made through the VDOT residency office.	Required application of the building movement permit be made through the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
460	N/A	Made numerous grammatical corrections to the requirements regarding building movements.	Grammatical corrections.
470*	None.	Added that a single use permit shall be obtained for bicycle and road races, parades and marches.	To provide more detail on permit requirements.
480	Catchline was "Chutes and tipples (coal mines, gravel pits, etc.), pipes from planning mills."	Catchline changed to "Chutes and tipples and other similar structures."	Streamlined catchline.
480	Required a permit for chutes and tipples to handle materials.	Required a single use permit for chutes and tipples to transport materials across right of way.	To provide more detail on permit requirements.
480	Referred to "chutes and tipples" and "planning mills."	Replaced with "such structures."	To streamline text.
490	N/A	Rephrased section for clarity. Requirement remains unchanged.	Rephrased section for clarity. Requirement remains unchanged.

Section number	Requirement at proposed stage	What has changed	Rationale for change
500*	None.	Clarified that permits for hydrological study equipment are only required if such equipment is on the state right of way. Required that maintenance of such equipment is the responsibility of the permittee.	To provide more detail on permit requirements.
510	N/A	Rephrased section for clarity. Requirement remains unchanged.	Rephrased section for clarity. Requirement remains unchanged.
520	None.	Clarified that permits for movie filming are only required if such filming is on the state right of way.	Clarification.
530	Catchline was "Flashing school signs."	Catchline changed to "School signs."	Correction to reflect terminology.
530	Allowed flashing school signs to be placed with approval of the district traffic engineer.	Required a single use permit for installation and maintenance of time actuated flashing school speed limit signs within highway rights-of-way, subject to approval of the district administrator's designee.	To be consistent with current Instructional Memoranda concerning VDOT procedures with respect to this type of signage.
540*	Allowed for permitting of grading that did not adversely affect maintenance, safety, and operations of vehicles on the highway.	Allowed for permitting of such grading on nonlimited access rights of way. Prohibited grading within limited access rights of way except in unusual circumstances.	To provide more detail on permit requirements.
550	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
550 B 6*	Memorials will remain in place for two years, with no renewals.	Memorials will remain in place for two years. Thereafter, annual extensions may be granted by the Commissioner.	To reflect current practice regarding memorials.
550 C 1	Memorials shall be designed in accordance with the Outdoor Advertising Manual.	Memorials shall be designed in accordance with laws and regulations governing outdoor advertising and vegetation control.	There is no Outdoor Advertising Manual; the "manual" is actually a reprinting of laws and regulations.
570	N/A	Added a subsection A.	For organizational purposes.
570	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
570 A 1	Stated that "presumably, most forest fire warning signs will be placed near" forest or wooded areas.	Removed the words "presumably, most forest" and "at locations suitable to VDOT."	To streamline text.
570 A 1	N/A	Minor punctuation change.	Minor punctuation change. Requirement remains the same.
570 A 1 d*	None.	Required that forestry signs be maintained by the Department of Forestry (DOF).	To provide more detail on responsibility of signs for which no permit is required; consistent with DOF reference elsewhere in subdivision.
570 A 1	Provided that the forest warden collaborate with the residency administrator in locating the signs.	Provided that the forest warden coordinate with the district administrator's designee in locating the signs.	To reflect transfers of functions within the VDOT organization. Changes in phrasing to make the requirement clearer.

Section number	Requirement at proposed stage	What has changed	Rationale for change
570 A 3	N/A	Corrected reference to a regulation.	To standardize references to regulations and documents incorporated by reference.
570 A 4	Rescue squad signs are erected and maintained by VDOT.	Rescue squad signs are fabricated, erected and maintained by VDOT.	The word “fabricated” had been inadvertently omitted.
570 A 4	N/A	Corrected reference to a regulation.	To standardize references to regulations and documents incorporated by reference.
570 A 5	Fire station signs are fabricated and maintained by VDOT.	Fire station signs are fabricated, erected and maintained by VDOT.	The word “erected” had been inadvertently omitted.
570 A 6	N/A	Changed the phrasing of the text.	To improve clarity and readability. Requirements remained unchanged.
570 A 6*	None.	The municipality shall be responsible for maintenance of bird sanctuary signs.	To provide additional detail on conditions associated with signs for which no permit is required.
570 B*	None.	Added provisions for permitting of locality identification or “welcome to” signs, certain markings on storm drain inlet structures, and no loitering signs.	To provide additional detail on conditions associated with signs that do not require a permit.
580	Catchline was “Ornamental posts, walls, or other apparatus.”	Catchline changed to “Ornamental posts, walls, residential and commercial development identification signs, or other nontransportation related elements.”	To better reflect the content of the section.
580	Instances of “ornamental posts, walls, or other apparatus” appeared throughout the section.	Instances changed to “ornamental posts, walls, residential and commercial development identification signs, or other nontransportation related elements” or any of these elements.	To provide more detail on permit requirements.
580*	Allowed the residency administrator to permit ornamental posts, etc.	Added specific provisions related to conditions under which ornamental posts, etc. may be permitted and placed on state right of way.	To provide more detail on permit requirements.
590	Referred to the “Central Office Asset Management Division.”	Changed to “Maintenance Division.”	To reflect the change in the division’s name.
590	N/A	Corrected references to statute.	Correction.
600	Used the term “construction.”	Used the term “installation.”	More precise term used for clarity.
600	Pedestrian and bicycle facilities may be permitted.	Pedestrian and bicycle facilities may be authorized under the auspices of a single use permit.	To provide more detail on permit requirements.
600	N/A	Added a reference to the documents incorporated by reference section for more information on the CTB’s Policy for Integrating Bicycle and Pedestrian Accommodations.	For informational and reference purposes.
600*	None.	Installation of pedestrian and bicycle facilities within limited access right of way requires CTB approval.	To provide more detail on permit requirements.
600	None.	Installation of pedestrian and bicycle facilities crossing limited access highways using an existing bridge or underpass does not require CTB approval.	For informational and reference purposes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
600	Used the term "break in limited access."	Used the term "change of limited access."	To be consistent with current terminology.
610	Permits for certain overdimensional trucks shall be obtained at the local residency.	Permits for certain overdimensional trucks shall be obtained from the district administrator's designee.	To reflect transfers of functions within the VDOT organization.
620	N/A	Corrected, updated, and standardized references to laws and regulations.	To correct and standardize references to laws, regulations and documents incorporated by reference.
620	Contained requirements regarding perpetual maintenance and maintenance agreements, reclamation by VDOT, and payment by the permittee for reclamation activities.	Moved requirements regarding perpetual maintenance and maintenance agreements, reclamation by VDOT, and payment by the permittee for reclamation activities to earlier in the section.	Relocated to more appropriate place in the section given the type of requirements discussed.
620*	Required all pesticide applicators to possess state certification.	Required all pesticide applicators to meet the requirements of the Virginia Department of Agricultural and Consumer Services.	To provide more detail on permit requirements.
630	Catchline was "Shelters."	Catchline changed to "Transit and school bus shelters."	To better reflect the content of the section.
630	Provided that shelters may be allowed under permit.	Provided that shelters may be authorized under the auspices of a single use permit.	To provide more detail on permit requirements.
630*	None.	Added that the Department of General Services (DGS) must approve the shelters.	DGS has responsibility for approving transit and school bus shelters placed in the Commonwealth.
640	N/A	Rephrased the section.	To improve clarity and readability. Requirements remained unchanged.
650	Provided that a permit shall be required for test holes.	Provided that a single use permit shall be obtained for test holes.	Clarification.
650	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
660	Referred to the Commissioner or a designee.	Removed "or a designee."	The final regulation defined "Commissioner" to include a designee; therefore, the inclusion of "or a designee" in this definition is redundant.
670	N/A	Rephrased certain sentences and standardized references to regulations.	To improve clarity and readability. Requirements remained unchanged. For consistency in references.
670	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
680	Required permittee to notify the VDOT residency administrator upon finding hazardous substances within the right of way.	Required permittee to notify the VDOT official who issued the permit upon finding hazardous substances within the right of way.	To reflect transfers of functions within the VDOT organization.
680	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.

Section number	Requirement at proposed stage	What has changed	Rationale for change
680	N/A	Changed “necessary to “ to “which must.”	To improve clarity and readability. Requirements remained unchanged.
690	Used the term “residency administrator.”	Changed to “district administrator’s designee.”	To reflect transfers of functions within the VDOT organization.
690	N/A	Standardized references to regulations.	To standardize references to regulations and documents incorporated by reference.
690	Referenced the “General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites.”	Corrected the reference to “General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites, Groundwater Remediation, and Hydrostatic Test.”	Correction.
700	Required the permittee to pay an application fee.	Required the applicant to pay the application fee.	Permits are not issued until after application fees are paid; therefore, there is no permittee, only an applicant, until after the applicant pays the fee.
700*	None.	Added provisions for fee waivers and letters of commitment in lieu of surety for locally administered VDOT projects.	To provide more detail on permit conditions for locally administered projects and to provide flexibility to the regulated community.
700	Referred to the Commissioner or a designee.	Removed “or a designee.”	The final regulation defined “Commissioner” to include a designee; therefore, the inclusion of “or a designee” in this definition is redundant.
710 A 2	Residency administrator will determine total permit fees.	District administrator’s designee will determine total permit fees using the fee schedule in the section.	To reflect transfers of functions within the VDOT organization. Clarified that fees are calculated using the fee schedule.
710 A 2 (table) *	Included a fee for the permit application and a header line titled “additive fees.”	Removed listing for permit application fee and header line titled “additive fees.”	Subdivision A 1 sets forth the \$100 application fee. Subdivision A 2 states that additive fees shall be in accordance with the following table. Therefore, the inclusion of the application fee and the header line are redundant.
710 A 2 (table)*	Set a fee for a logging entrance.	Set a fee for a temporary logging entrance.	More precise description of fee condition.
710 A 2 (table)	Set the fee for a traffic signal as a per signal fee.	Set the fee for a traffic signal as a per signal installation fee.	More precise description of fee condition.
710 A 2 (table)	Set a fee for a minor overhead guy.	Set a fee for a span guy.	More precise description of fee condition.
710 A 2 (table)*	Set a fee for an underground utility.	Set a fee for an underground utility – parallel.	More precise description of fee condition.
710 A 3*	Doubled the longitudinal fee when the size of a utility facility required the use of more than a six-foot width of the right of way.	Removed this provision.	This provision was deemed cost prohibitive to industry. This provision was removed in response to public comments.

Section number	Requirement at proposed stage	What has changed	Rationale for change
710 A 3	Proposed subdivision A 4 provided for time extensions for existing permits.	Provided for time extensions for active permits.	More precise description of condition for extensions.
710 A 3*	Proposed subdivision A 4 established a monetary charge equal to the application fee plus one half the additive fees for a time extension.	Reduced the charge to an amount equal to one half the application fee.	Fees were adjusted in response to public comments.
710 A 3*	Proposed subdivision A 4 allowed expired permits to be reinstated for a fee equal to the initial permit fee.	Allowed expired permits to be reinstated for a fee equal to the application fee.	More precise description of condition of permit reinstatement.
710 A 5	Proposed subdivision A 6 used the term "residency administrator."	Changed the term to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
710 A 5	Allowed for billing every 30 days.	Allowed for billing every 30 <i>calendar</i> days.	For consistency across VDOT's land use regulations.
710 B*	Residency wide permits are valid for one year.	District wide permits are valid for two years.	To make the provision consistent with revised section 30 C, which discusses districtwide permits.
710 B*	Set a fee of \$100 per residency for work on secondary and primary roads.	Set a biannual fee for utility and logging operations at \$750 per district and for surveying at \$200 per district.	To better align costs of the permit program administration with services provided.
710 B*	None.	Authorized the central office permit manager to combine requests for multijurisdictional district wide permits.	To facilitate more efficient processing of permit requests of this type.
710 C*	None.	Set miscellaneous permit fees for certain energy facilities.	To comply with provisions of Chapter 807 of the 2009 Acts of Assembly.
710 D*	Proposed subsection C provided that in-place permits shall be issued at no cost to the permittee.	Identified eight types of permits, including in-place permits, to be issued at no cost to the applicant.	To provide more detail on the conditions under which permit charges are not assessed.
720	Used the term "residency administrator."	Changed to "district administrator's designee."	To reflect transfers of functions within the VDOT organization.
720 B	N/A	Rephrased two sentences.	For clarity and improved readability.
720 B*	None.	Required the applicants for district wide permits to provide continuous surety.	To provide more detail on surety requirements for these types of permits.
740 B	Referenced § 15.2-2108 of the Code of Virginia.	Referenced §§ 15.2-2108.1:1 and 56-468.1 of the Code.	Correction.
740 B*	Exempted cable television operators from annual use payments in any locality which charges a franchise fee.	Exempted cable television operators subject to the public right of way use fee from annual use payments.	Correction to comply with §§ 15.2-2108.1:1 and 56-468.1 of the Code.
740 C*	Doubled the longitudinal compensation requirement when the size of a utility requires the use of more than a six-foot width of right of way.	Removed this provision.	This provision was removed in response to public comments.

Section number	Requirement at proposed stage	What has changed	Rationale for change
740 C*	None.	Exempted certified providers of telecommunications service from land use permit application fees, additive fees, and annual payments.	To comply with §§ 15.2-2108.1:1 and 56-468.1 of the Code of Virginia.
740 D*	None.	Exempted municipal or authority owned sewer and water facilities and renewable energy generation transmission facilities from accommodation fees.	To comply with §§ 15.2-2108.1:1 and 56-468.1 of the Code of Virginia.
740 E	N/A	Rephrased proposed subsection D.	For clarity and improved readability.
740 E*	Included provisions related to reimbursement for utility relocations, adjustments, and removals.	Removed these provisions.	Provisions are not needed because the subject is addressed in greater detail in §§ 15.2-2108.1:1 and 56-468.1 of the Code of Virginia.
750*	Contained provisions regarding fees for communication tower sites.	Removed this section.	The proposed regulation allowed the Commissioner to adjust permit application fees and additive fees by up to 25% of the existing fee structure. In the Economic Impact Analysis of the proposed regulation, DPB stated that this provision could not be adopted because it could yield fee increases not consistent with the Consumer Price Index.
760	Provided information regarding documents incorporated by reference.	Updated information regarding documents incorporated by reference.	To reflect the current versions of certain documents; to use formatting consistent with that used for other VDOT regulations.

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.

The following comments were made at the public hearings or during the public comment period (July 9 through September 9, 2007) during the proposed stage. The agency responses are reflected in the final version of the *Land Use Permit Regulations* (24 VAC 30-151). Editorial changes are not addressed in this summary. VDOT’s Maintenance Division received 53 comments related to the proposed regulation (24VAC-30-151). Most comments suggested editorial changes or clarifications, and most were incorporated. All comments were reviewed and addressed based on discussions with the advisory committee.

Committer(s)	Comments	Agency response
Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association	<p><u>24 VAC 30-151-330.</u> Commenters objected to the following requirement: "Overhead installations crossing existing or proposed highways shall be placed with at least 21 feet of vertical clearance. The residency administrator may approve vertical clearance less than 21 feet; however, no crossing shall be permitted with less than 18 feet of vertical clearance."</p>	The requirement was modified to provide that new overhead installations crossing existing or proposed highways (primary and secondary) shall be placed with at least 18 feet of vertical clearance. The vertical clearance for all parallel overhead installations within non-limited access right-of-way shall be in compliance with current standards as required by the National Electric Safety Code.
Columbia Gas	<p><u>24 VAC 30-151-370. Encasements.</u> Commenter requested the possibility of allowing installation of un-encased gas lines under the state highway system and to provide guidance to regulated entities with respect to when such installations would be appropriate.</p>	VDOT will permit un-encasement on all jointless steel pipelines. Supporting data must be submitted with the permit request verifying that the installation meets or exceed all federal requirements for un-encased road crossings and that the pipe will carry the anticipated load generated by the highway's traffic.
Dominion Virginia Power, Verizon	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Commenters requested that residency-wide permits be replaced with district-wide permits.</p>	Residency-wide permits were changed to district-wide permits.
Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Commenters requested a clarification of the requirement that installing electrical lines that exceed 34.5 KV, requires a separate permit.</p>	Installing electrical lines that exceed 34.5 KV, will require the issuance of a separate permit.
Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association (cont.)	<p><u>24 VAC 30-151-340. Non-limited access highways - Underground installations.</u> Commenters requested removal of requirements that a utility not be attached to a bridge or other structure unless the utility owners can demonstrate that the installation and maintenance methods will not require access from the roadway or interfere with roadway traffic and that the attachment method be approved by VDOT.</p>	This requirement was deemed necessary to public safety and to the proper maintenance of bridges and structures and has therefore been retained in the final regulation.

Committer(s)	Comments	Agency response
<p>Dominion Virginia Power, Verizon, Association of Electric Cooperatives, Virginia Cable Telecommunications Association (cont.)</p>	<p><u>24 VAC 30-151-710. Fees.</u> Commenters objected to the provision in A.3 that the fee will be doubled whenever the size of the utility facility to be installed in a longitudinal occupancy requires the use, including separation clearances, of more than a six-foot width of the right-of-way.</p> <p>Commenters were concerned that elimination of the statewide blanket permit would force companies to apply for 45 residency-wide permits, resulting in higher costs for both the companies and VDOT.</p>	<p>The provision at subdivision A.3. was removed.</p> <p>Residency-wide permits have been replaced with district-wide permits, and the central office permit manager has been given authority to exercise discretion in combining requests for multi-jurisdictional district-wide permits. The blanket surveying permit has been reinstated in the regulation.</p>
<p>Virginia Cable Telecommunications Association</p>	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u> Commenter objects to the requirement that the applicant submit site plans or sketches for proposed installations within the right-of-way to VDOT for review along with studies necessary for approval.</p> <p><u>24VAC30-151-310. Limited access highways – aboveground installations. (Vertical Clearance)</u></p> <p><u>24VAC30-151-330. Nonlimited access highways; aboveground installations.</u></p> <p>Commenter objects to the requirement that all overhead installations be places with at least 21 feet of vertical clearance.</p>	<p>These requirements are necessary to ensure the proper installation, location, compliances with approved design, and safety of the traveling public.</p> <p>The requirement in 24VAC30-151-310 exists in the current regulations and will not be changed.</p> <p>The requirement in 24VAC30-151-330 was modified to provide that new overhead installations crossing existing or proposed highways shall be placed with at least 18 feet of vertical clearance. The vertical clearance for all parallel overhead installations within non-limited access right-of-way shall be in compliance with current standards as required by the National Electric Safety Code.</p>
<p>Virginia Cable Telecommunications Association (cont.)</p>	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Commenter objects to the requirement that a permit agreement be established for any new longitudinal occupancy of the limited access right-of-way, including any new perpendicular crossing of the limited access right-of-way or any new communication tower or small site facilities installed within the right-of-way.</p>	<p>A separate permit is required to cross and/or work within the limited access right of way. An agreement is required to install longitudinal lines and perpendicular crossings and to place towers with the limited access and right of way.</p>

Commenter(s)	Comments	Agency response
Virginia Cable Telecommunications Association (cont.)	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u> Commenter objected to the limitation of liability clause in section G.</p> <p><u>24 VAC 30-151-90. Hours and days work authorized; holiday schedule.</u> Commenter requested that the normal hours for work authorized under VDOT permit be expanded to accommodate an 8 hour work schedule and that the span of time within which the work may be performed be expanded for greater flexibility of utility scheduling.</p>	<p>VDOT removed the following from section G:</p> <p>“VDOT will not be responsible for damage to the facility placed under permit as a result of future maintenance or construction activities performed by VDOT.”</p> <p>Normal work hours under the authority of a permit remain from 9:00 a.m. to 3:30 p.m. Monday through Friday for arterials and collectors. The regulation has been amended to allow the district administrator’s designee to authorize alternate work schedules for single use permits and to allow the central office permit manager to authorize alternate work schedules for district-wide permits. Local roads have unrestricted work hours. All are subject to traffic volume and road conditions.</p>
Virginia Cable Telecommunications Association (cont.)	<p><u>24 VAC 30-151-750 Land use permit application fee and additive fees, communication tower site fees, annual adjustments.</u> Commenter objects to the authority of the Commonwealth Transportation Commissioner to adjust the permit application fee and additive fees by up to 25% annually.</p>	<p>This section has been deleted.</p>
Virginia Cable Telecommunications Association (cont.)	<p><u>24 VAC 30-151-740. Exceptions and provisions to the payment of fees and compensation.</u> Commenter strongly believes that cable operators should be afforded the same fee exemptions as telecommunications providers.</p>	<p>Pursuant to §§ 56-462 and 56-468.1 of the Code of Virginia, a provider of telecommunication service shall collect and remit to VDOT a public right-of-way use fee as full compensation for the use of the right-of-way by those utilities. The certificated provider of telecommunication service is exempt from the permit fee as long as they are registered with the State Corporation Commission as a certificated provider of telecommunication service.</p>
Virginia Cable Telecommunications Association (cont.)	<p><u>24 VAC 30-151-730. Accommodation fees.</u> Commenter objected to the Limited Access Longitudinal Installation annual use payment of \$250 per mile.</p>	<p>VDOT has determined to retain this provision in the regulation.</p>
Virginia Telecommunications Industry Association	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Commenter requested less stringent requirements for utilities installing and maintaining service connections on state right-of-way.</p>	<p>The permit type for work by utilities was changed from a residency-wide to a district-wide permit. Provisions were added to address parallel service installation. The final regulation permits telecommunications installation of parallel underground utility service connections, not to exceed 500 feet in length, under the district-wide blanket permit. It also allows overlashing of telecommunication lines under the district-wide blanket permit as long as it meets the NESC.</p>

Commenter(s)	Comments	Agency response
<p>Dewberry & Davis, L.L.C, Virginia Association of Surveyors, Inc., Koontz-Bryant, P.C Trend Land Surveying, Dominion Surveyors, Inc., Tri-Tek Engineering, Jordan Consulting Engineering</p>	<p><u>24 VAC 30-151-30. Permits and agreements.</u> 1. A land surveyor begins a project by establishing aerial panels that could be painted on the pavement or as plastic panels in the grass. Could this be interpreted as disturbing the pavement or shoulders? Could painting and placing pin flags be interpreted as disturbing the pavement or shoulders? 2. Surveyors may be required to delay traffic for few moments to mark and/or survey the existing utilities. Surveyor crew may need to open a manhole to acquire an as built elevation on the inverts of the structure. Should this require a single use permit?</p>	<p>1. Painting on the pavement or as plastic panels in the grass and placing flags are not interpreted to be disturbing to the pavement or shoulders. 2. A single use permit is required when working in the travel lanes and/or stopping and delaying traffic movements. This is essential to ensure the safety of the traveling public.</p>
<p>Dewberry & Davis, L.L.C, Virginia Association of Surveyors, Inc., Koontz-Bryant, P.C Trend Land Surveying, Dominion Surveyors, Inc., Tri-Tek Engineering, Jordan Consulting Engineering (cont.)</p>	<p><u>24 VAC 30-151-90. Hours and days work authorized; holiday schedule.</u> Commenters objected to restrictions on work hours and days. <u>24 VAC 30-151-30. Permits and agreements.</u> Trimming limbs and brush in surveying operations is common practice. In order to perform work surveyors must recover the property corners and right of way monuments. This may require cutting back the brush and digging to recover the monuments as required by the regulation of the Commonwealth. Does this require an additional permit?</p>	<p>Normal work hours under the authority of a permit remain from 9:00 a.m. to 3:30 p.m. Monday through Friday for arterials and collectors. The regulation has been amended to allow the district administrator's designee to authorize alternate work schedules for single use permits and to allow the central office permit manager to authorize alternate work schedules for district-wide permits. Local roads have unrestricted work hours. All are subject to traffic volume and road conditions. Trimming limbs requires coordination with Roadside Manager at the district level and may not require the surveyor to obtain an additional permit.</p>
<p>Dewberry & Davis, L.L.C, Virginia Association of Surveyors, Inc., Koontz-Bryant, P.C Trend Land Surveying, Dominion Surveyors, Inc., Tri-Tek Engineering, Jordan Consulting Engineering (cont.)</p>	<p><u>24 VAC 30-151-40. General rules, regulations and requirements.</u> Commenter opposes the requirement to maintain right of way restoration for a period of three years, versus the more widely accepted and enforced restoration warranty period of one year.</p>	<p>This section has been amended to provide criteria for the consideration of granting a one-year restoration warranty period.</p>

Commenter(s)	Comments	Agency response
Phillip Whitlow	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Elimination of blanket permits for temporary logging entrances creates more bureaucracy, denies landowners access to public highways for harvesting timber, and amounts to another tax.</p>	<p>The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.</p>
Ben Cole (logger)	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating the blanket permit program in favor of single temporary logging entrance permits would be expensive, time consuming, and impractical for industry and VDOT. His business uses 100 - 150 entrances, which would require \$10,000 - \$15,000 per year in entrance permits. All logging entrances are temporary, lasting a few days to a few weeks. Construction is also temporary, so why is logging being singled out by VDOT?</p>	<p>The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.</p>
Mark Rogers	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating blanket entrance permits in favor of single temporary permits is unnecessary, expensive, time consuming, and unfair to industry.</p>	<p>The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.</p>
Goodman Lumber Company, Inc.	<p><u>24 VAC 30-151-30. Permits and agreements.</u> Eliminating blanket permits for logging is an administrative burden and forces loggers to wait on state inspections every time they have to move to a new location to do work. The new fees amount to a tax.</p>	<p>The final regulation allows for district-wide permits to be issued for temporary logging entrances on nonlimited access primary and secondary highways.</p>

Commenter(s)	Comments	Agency response
Sammy Gray, Virginia American Water	<p><u>24 VAC 30-151-10. Definitions.</u> <u>24 VAC 30-151-340.</u> There is no basis for distinguishing between private and public utilities.</p> <p><u>24 VAC 30-151-30. Permits and agreements.</u> Applying for a single-use permit every time required maintenance would disrupt a public road could adversely affect public health and safety by preventing an immediate response. Permit fees increase costs, which will ultimately be passed on to the customer.</p> <p><u>24 VAC 30-151-340.</u> A shared resource arrangement is not adequately defined.</p> <p><u>24 VAC 30-151-720. Surety.</u> <u>24 VAC 30-151-730.</u> <i>Accommodation fees.</i> Surety requirements and accommodation fees increase costs, which will ultimately be passed on to the customer.</p>	<p>The final regulation does not define classes of utilities.</p> <p>The requirement is for a verbal authorization, which should not prevent an immediate response. The application for a single-use permit is not required to be made until after the emergency situation has been resolved. Fees are necessary to cover VDOT's administrative costs in ensuring safety while providing regulated entities with the privilege of performing work on state-owned property.</p> <p>VDOT believes that this term is adequately defined.</p> <p>Surety requirements are intended to ensure that any damage caused by a permittee is repaired at the expense of the permittee, rather than at the expense of the taxpayer. Fees are necessary to cover VDOT's administrative costs in ensuring safety while providing regulated entities with the privilege of performing work on state-owned property.</p>

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.

The *Land Use Permit Regulations* (24 VAC 30-151) is a new regulation. It replaces the existing *Land Use Permit Manual* (24 VAC 30-150). The following table provides a cross-walk between the sections of the *Land Use Permit Regulations* and the *Land Use Permit Manual*, including a brief description of changes and the rationale for those changes. A detailed table of changes from the proposed version of the *Land Use Permit Regulations* to the final version may be found in the "Changes made since the proposed stage" section of this document.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
10	Definitions	20 1110	General rules and regulations of CTB Definition of terms	The revised regulation has been updated. New terms have been added to the definitions, which are now located at the beginning of the regulation.
20	Authority	20	General rules and regulations of CTB	Wording for this section has been revised to remove duplicative statements and paragraphs.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
30	Permits and agreements	70 80 90 1090 1600 1660 1670 1680 1700 1710 1720 1770 1780 1110 1130	Permits issued by resident engineer Permits issued by district administrator Permits issued by the highway permit manager Special provisions for blanket permits Gas or petroleum transmission pipelines on subdivision streets Annual blanket permits (excluding interstate) House service connections Commercial entrances Private entrances (district administrator) Private entrances (resident engineer) Logging roads Commercial use agreements Agriculture use agreements Definition of terms New utility installations along controlled access	This section addresses when a permit is required and what type of permit is required for activities in the right-of-way. The new text introduces the term “in-place permit” and the concept of resource sharing for limited access right-of-way. The final regulation adds a section acknowledging prior rights for in-place utilities located within the right-of-way that are found to be not in conflict with transportation improvements authorized under the auspices of a land use permit. This section has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
40	General rules, regulations, and requirements	20 60 70 80 290 480 520 530 610 680 800 810 1400 1540	General rules and regulations of CTB Issuance of permits Permits issued by resident engineer Permits issued by district administrator Requirements for permit charges, bonds and guarantee fees, irrevocable letters of credit Emergency permits Engineering design requirements Responsibility of applicant Excavation Protection of existing utility facilities Backfill and compaction Pavement restoration Installation Preservation, restoration, and cleanup	This section addresses how a person or company should apply for a permit and what is required for review of the request. Responsibilities and liabilities associated with granting a permit are addressed. Wording for this section was revised to remove duplicative text and to locate permit responsibilities, liabilities and general requirements into one section.
50	Violations of rules and regulations	40 30	Discovery of a violation Violations of rules and regulations	This section addresses how violations are handled and what legal liabilities may be placed on the permittee. Wording for this section has been revised to remove duplicative text, to locate similar into one section, and to improve clarity.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
60	Authority of district administrator's designee	60 70 80 350 470	Issuance of permits Permits Issued by the residency engineer Permits Issued by the district administrator Failure to properly carry out work Completion	This section addresses the authority of the district administrator's designee to stop work and the obligation of the permittee to pay for damages to the right-of-way. Wording for this section has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
70	Plan review and permit inspection	340 520 640 650	Assignment of an inspector Engineering design requirements Necessity to assign inspectors Absence of inspector	This section addresses the requirement for permittee to pay costs for review of plans and inspection of activities performed under the authority of a permit. Wording for this section has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
80	Permit time limits and cancellations	410 420 440 450	Procedure for canceling permits Procedure for canceling permits Charge for permit cancellation Procedure for canceling bonds	This section establishes the time limit for a permit to be active and the requirements for extension, reinstatement and cancellation of a permit. Wording for this section has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
90	Hours and days work authorized; holiday schedule	N/A	Not explicitly addressed	This section establishes time limitations for working on holidays and weekends. This was added to clearly indicate hours of work. Previous regulation depended on a provision in the VDOT Road and Bridge Specifications.
100	Appeal	N/A in LUPM (addressed in Ch. 71, sect. 30)	Appeals for issues dealing with entrances made to District Administrator. Not explicitly addressed in Land Use Permit Manual for other permits.	This section establishes an appeal process for rendering rulings on unresolved differences on interpretation and application of permitting requirements. This was added to clearly indicate the process for appeals. Previous regulation depended on provisions in the VDOT Road and Bridge Specifications.
110	Denial; revocation; refusal to renew	20 100 410 430 570 1060 1680	General rules and regulations of CTB Processing permit applications Procedure for canceling permits Procedure for handling delinquent permits Revocable permits Denying or revoking commercial entrances permits Commercial entrances	This section establishes the process for denial, revocation and refusal to renew a permit. Wording for this section has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
120	Provisions governing entrances	20 905	General rules and regulations of CTB Compliance	This section addresses the authority regulating entrances to be constructed in the right-of-way. It references the Code of Virginia and the Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
130	Reserved.	70 90 630 730 905 910 960 1050 1060 1070	Permits issued by resident engineer Permits issued by the highway permit manager Condition of connections and entrances Complying with department's requirements Compliance Entrance to be constructed to department standards Commercial entrance curbing Responsibility for maintenance Denying or revoking commercial entrances permits Upgrading commercial entrances	General provisions governing entrances are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
140	Reserved.	70 80 320 1700 1710	Permits issued by resident engineer Permits issued by district administrator No-fee permits Private entrances Private entrances	Private entrances are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
150	Reserved.	20 905 910 920 930 940 960 1680	General rules and regulations of CTB Compliance Entrance to be construction to department standards Base materials Installation of pipe Entrance Islands Commercial curbing Commercial entrances	Commercial entrances are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
160	Reserved.	630 730 905 910 940 960 1050 1060 1070 1680	Condition of connections and entrances Complying with department's requirements Compliance Entrance to be constructed to department standards Entrance islands Commercial entrance curbing Responsibility for maintenance Denying or revoking commercial entrances permits Upgrading commercial entrances Commercial entrances	Existing entrances are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
170	Reserved.	N/A	General language used in entrance manual regarding preventing interference with free traffic movements, encouraging joint use entrances.	Access management and entrance location are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73). These subjects were also addressed in the Minimum Standards of Entrances to State Highways (24 VAC 30-71), which was superseded by the Access Management Regulations.
180	Reserved.	1690	Commercial entrances to open-air theaters	Drive-in theaters are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
190	Reserved.	70 80 1720	Permits issued by resident engineer Permits issued by district administrator Logging roads	Temporary entrances (construction, logging) are addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
200	Reserved.	1730	Access to public fishing waters	Access to public fishing waters is addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
210	Reserved.	20 730 910 960	General rules and regulations of CTB Complying with department's requirements Entrance to be constructed to department standards Commercial entrance curbing	Entrance design is addressed in VDOT's Access Management Regulations (24 VAC 30-72 and 24 VAC 30-73).
220	Commercial use agreements	1770	Commercial use agreements	This section addresses agreements for use of right-of-way for commercial purposes. Wording has been revised to improve clarity and to make it consistent with the section on agricultural use agreements.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
230	Agriculture use agreements	1780	Agriculture use agreements	This section addresses agreements for use of right-of-way for agriculture purposes. Wording has been revised to improve clarity and to make it consistent with the section on commercial use agreements.
240	Dams	1850 1860	Specifications for the construction of farm ponds adjacent to highways	This section establishes requirements for construction of dams within the right-of-way. Wording has been revised to improve clarity and updated to reflect current requirements for dam construction.
250	Railroad grade crossing or encroachments	20 90 1310 1960 1970 1980	General rules and regulations of CTB Permits issued by the highway permit manager General considerations Application for permit Permit requests from railroad companies Permit requests by other companies	This section establishes requirements for construction of railroad grade crossings or encroachments into right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
260	Railroad crossing permit requests from railroad companies	1960	Application for permit	This section establishes requirements for construction of railroad grade crossings or encroachments into right-of-way by railroad companies. Wording has been revised to improve clarity.
270	Railroad crossing permit requests by other companies	1970	Permit requests from railroad companies	This section establishes requirements for construction of railroad grade crossings or encroachments into right-of-way by other companies. Wording has been revised to improve clarity.
280	Springs and wells	2110	Springs and wells	This section addresses permitting of existing springs or wells located in the right-of-way. Wording has been revised to improve clarity.
290	Public telephones	90 2140 2150	Permits issued by the highway permit manager Interstate systems Other highways	This section establishes requirements for location of public telephones in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
300	General provisions governing utilities	90 890 900	Permits issued by the highway permit manager Overhead installation Location of overhead parallel facilities	This section establishes general requirements for allowing utilities in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
310	Utility installations within limited access highways	1100 1130 1140 1160 1170 1180 1190	Introduction New utility installations along controlled access highways Existing utilities along proposed controlled access highways Utilities crossing controlled access highways Utilities along roads or streets crossing controlled access highways Overhead utility crossings Underground utility crossings	This section establishes rules for allowing utilities in limited access right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
320	Reserved.	N/A	Not explicitly addressed	Reserved. See “Changes made since the proposed version” table.
330	Overhead utility installations within nonlimited access highways	860 1310 1510	Above ground mounted installations General considerations Underground electric power and communication lines	This section establishes rules for allowing utilities in non-limited access right-of-way. This section updates the required overhead clearance for above-ground installations. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
340	Underground utility installations within nonlimited access highways	1310	General considerations	Wording has been revised for the requirements for the installation of underground utilities.
350	Nonlimited access highways: communications towers and site installations	N/A	Not explicitly addressed	This section establishes rules for allowing communications towers and site installations of utilities in non-limited access right-of-way.
360	Pipelines	1310	General considerations	This section establishes rules for allowing pipelines to be installed in the right-of-way. Wording has been revised to improve clarity.
370	Encasement requirements	1360	Encasement	This section establishes requirements for encasements. Wording has been revised to improve clarity.
380	Appurtenances	1380 1470 1520	Appurtenance Overhead power and communications lines Location and alignment	This section establishes requirements for the installation of appurtenances in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
390	In place permits and prior rights permits	1600	Gas or petroleum transmission pipelines on subdivision streets	This section establishes requirements for permitting existing utilities in the right-of-way of new subdivision streets. The final version acknowledges prior rights for in-place utilities located within the right-of-way that are found to be not in conflict with transportation improvements authorized under the auspices of a land use permit. Wording has been revised to improve clarity.
400	Utility adjustments in conjunction with a VDOT project	110 160 170 180 220 1220 1230	Issuance of permits to owner of the facility Utilities to be covered by permit Permit for adjustments in connection with utility agreement Permits for utility adjustments not in connection with utility agreement Permit charges not required Construction and location details Manner of making utility installations and adjustments	This section establishes requirements for permitting existing utilities located in the right-of-way of VDOT construction projects. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
410	Utility installations in scenic areas	1270	Scenic enhancement	This section establishes requirements for permitting utilities within the right-of-way of scenic areas. Wording has been revised to improve clarity.
420	Lighting facilities	80 1270 1610 1620 1650	Permits issued by district administrator Scenic enhancement Roadway lighting facilities Roadway lighting—pole placement Roadway and security lighting facility; permit procedure	This section establishes requirements for permitting roadway lighting facilities within the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
430	Attachments to bridge structures	1150 1460	Bridge attachments on controlled access highways Installations on highway structures	This section establishes requirements for permitting utilities to attach to bridge structures. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
440	Miscellaneous permits	1770	Commercial use agreements	This section addresses authority to require and issue miscellaneous permits.
450	Banners and decorations	1790 1800	Decorations Banners	This section establishes requirements for permitting banners and decorations in the right-of-way.
460	Building movements	2190	Building movements	This section establishes requirements for allowing building movements to use the highway systems.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
470	Bicycle and road races, parades, and marches	70	Permits issued by resident engineer	This section addresses authority for permitting bicycle and road races, parades, and marches to use the highway systems. Wording has been revised to improve clarity.
480	Chutes and tipples and other similar structures	1810	Chutes (coal, mines, gravel pits, etc.).	This section establishes requirements for permitting chutes and tipples (coal mines, gravel pits, etc.), pipes from planning mills (overhead) to be installed in the right-of-way. Wording has been revised to improve clarity.
490	Construction or reconstruction of roads, bridges, or other drainage structures	1820	Construction or reconstruction of roads, bridges or other drainage structures	This section establishes requirements for construction or reconstruction of roads, bridges, or other drainage structures. Wording has been revised to improve clarity.
500	Crest stage gauges, water level recorders	1830	Crest stage gauge, water level recorders and flood gates	This section addresses authority to allow for permitting of crest stage gauges, water level recorders. Wording has been revised to improve clarity.
510	Emergency Vehicle access	1870	Fire warning signal	This section addresses authority to allow for permitting of emergency vehicle access onto highways. Wording has been revised to improve clarity.
520	Filming for movies	N/A	Not explicitly addressed in current regulation - filming within right-of-way is allowed by permit	This section describes current practices concerning permits for motion picture companies to use the highway system.
530	School signs	2000	School warning signals	This section addresses authority to allow for permitting of flashing school signs to be permitted. Wording has been revised to improve clarity.
540	Grading on right-of-way	1880	Grading on right-of-way	This section addresses authority to allow for permitting of grading on right-of-way. Wording has been revised to improve clarity.
550	Roadside memorials	N/A	Not specifically addressed in current regulation – roadside memorial signs are allowed to be placed in RW by VDOT	This section establishes requirements for roadside memorials (application requirements, VDOT and applicant responsibilities).
560	Mailboxes and newspaper boxes	1910 1920 1930	Mailboxes; newspaper boxes Mailboxes Newspaper boxes	This section establishes requirements for placement of mailboxes on the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
570	Miscellaneous signs	90 2090 2100	Permits issued by the highway permit manager Miscellaneous signs	This section addresses authority for placement of public service signs and historical markers on the right-of-way. The final version added provisions regarding miscellaneous signs and authorizing local government installation of “No Loitering” signs. Wording has been revised to improve clarity.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
580	Ornamental posts, walls, residential and commercial development identification signs or other nontransportation related elements	N/A	Not explicitly addressed	This section establishes requirements for placement of ornamental posts, walls or other apparatus in the right-of-way to make treatment of these features consistent across the state.
590	Outdoor advertising adjacent to right-of-way	2080	Outdoor advertising	This section addresses permitting of outdoor advertising. Wording has been revised to improve clarity.
600	Pedestrian and bicycle facilities	80 2120	Permits issued by district administrator Steps, sidewalks, curb and gutters	This section addresses authority for placement of pedestrian and bicycle facilities within the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity. Updated for consistency with CTB policy.
610	Permits for certain over dimensional haulers and loaders	1890	Hauling and moving permits	This section addresses authority for permitting certain over dimensional haulers and loaders. Wording has been revised to improve clarity.
620	Roadside management, landscaping	80 1900	Permits issued by district administrator Herbicides usage	This section addresses authority for permitting of the placement and maintenance of landscaping in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
630	Transit and school bus shelters	80 2010 2020 2030	Permits issued by district administrator School bus shelters Other shelters Share-the-ride stations	This section addresses authority for permitting of shelters in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
640	Trash containers and recycling sites	90 2160	Permits issued by the highway permit manager Trash containers	This section addresses authority for permitting of trash containers and recycling sites in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
650	Test holes	80 2110	Permits issued by district administrator Springs and wells	This section addresses authority for permitting of test holes in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
660	Special requests and other installations	N/A	Not explicitly addressed	This section includes a new provision that states authority for permitting of special requests in the right-of-way. This allows VDOT field offices with the flexibility to handle requests not explicitly addressed in the new regulation.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
670	Prohibited use of right-of-way	60 980	Issuance of permits No signs on right-of-way	This section addresses activity not permitted in the right-of-way. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
680	Hazardous materials, waste, or substances	N/A	No requirement except that permittee to correct conditions deemed hazardous, but does not address hazardous materials/waste/substances explicitly	This section includes a new provision that states requirements for permitting of hazardous materials, waste, and substances in the right-of-way to reflect environmental requirements from Department of Environmental Quality that were not in existence when current regulation was last amended.
690	Permitted discharge to VDOT right-of-way	N/A	Not explicitly addressed; General Rules & Regulations of the CTB address water runoff only	This section establishes requirements for permitting to discharge into the right-of-way.
700	General provisions for fees, surety and other compensation	280	Definition of terms	This section establishes provisions regarding fees and sureties for issuing of permits. Wording has been revised to improve clarity. The final regulation addresses permit fees and surety obligations for locally-administered VDOT projects.
710	Fees	290 300 310	Requirements for permit charges, bonds and guarantee fees, irrevocable letters of credit Schedule of permit charges List of additive permit charges	This section establishes fees used for issuing of permits. There are significant changes in fees for various permits. Fees have not been increased since 1983, and the proposed changes in the fees will better reflect VDOT's actual cost of issuing and inspecting permits. The regulation added fees for private entrances, and the final version added a listing of no-fee permits. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
720	Surety	240 260 270 330 430	Cities, towns and counties may furnish ordinances or resolutions Guarantee fees; irrevocable letter of credit Continuing bonds and performance bonds Guarantee fee, performance and continuous bond fees; irrevocable letters of credit Procedure for handling delinquent permits	This section establishes rules for and types of sureties used for permits. Surety is based on actual cost of work in the right-of-way rather than a table of fees. Wording has been revised to remove duplicative text, to locate similar provisions into one section, and to improve clarity.
730	Accommodation Fees	N/A	Current policy concerning accommodations is not in regulation	This section establishes provisions for accommodation fees for utilities to be installed in limited access right-of-way.

New section (Ch. 151 LUPR)	Proposed Title (Ch. 151 LUPR)	Existing section (Ch. 150 LUPM*)	Existing requirement (Ch. 150 LUPM*)	Proposed change and rationale (Ch. 151 LUPR)
740	Exceptions and provisions to the payment of the fees and compensation	N/A	No current requirement – Subdivision Street Requirements (24 VAC 30-91) amended in early 2005 contain similar provisions for fee structure	This section establishes exceptions and provisions to the payment of the fees and compensation and VDOT's discretion to make fee structure consistent with treatment in Secondary Street Acceptance Requirements (24 VAC 30-92).
750	Reserved.	N/A	No current requirement	None.
760	Listing of documents (publications) incorporated by reference	N/A	No consolidated listing for documents incorporated by reference	The final regulation updates and reformats the listing of documents referenced throughout the regulation for greater accuracy and clarity.

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 *Land Use Permit Regulations* have been written to prevent any disproportionate adverse impacts on small businesses, since their purpose is to ensure that work performed on state-owned rights-of-way meets certain standards for quality and workmanship. Alternate regulatory methods considered in the new regulation 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. Attempts were made to clarify the requirements wherever possible without compromising public safety and benefit; however, establishing less stringent requirements would not be in the public interest.
- 2) Establishment of less stringent schedules or deadlines for compliance or reporting requirements – There are no schedules or deadlines for compliance or reporting. Time requirements relate to renewal of a permit prior to its expiration and to the appeals process.
- 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.
- 4) Establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation – General design standards addressed in the existing regulation are not addressed in the replacement regulation, as they have been

transferred to the *Access Management Regulations: Principal Arterials* (24 VAC 30-72) and *Access Management Regulations: Minor Arterials, Collectors, and Local Streets* (24 VAC 30-73).

- 5) Exemption of small businesses from all or any part of the requirements contained in the proposed regulation – Because the requirements are designed to ensure public safety, creating exemptions to the requirements would not be in the public interest.

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.

This regulation will have no effect on the institution of the family and family stability or on items 1-4 above.