



Virginia Register of Regulations

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **26:20 V.A.R. 2510-2515 June 7, 2010**, refers to Volume 26, Issue 20, pages 2510 through 2515 of the *Virginia Register* issued on June 7, 2010.

The *Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Bill Janis**, Vice Chairman; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Patricia L. West**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

April 2011 through March 2012

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
27:16	March 23, 2011	April 11, 2011
27:17	April 6, 2011	April 25, 2011
27:18	April 20, 2011	May 9, 2011
27:19	May 4, 2011	May 23, 2011
27:20	May 18, 2011	June 6, 2011
27:21	June 1, 2011	June 20, 2011
27:22	June 15, 2011	July 4, 2011
27:23	June 29, 2011	July 18, 2011
27:24	July 13, 2011	August 1, 2011
27:25	July 27, 2011	August 15, 2011
27:26	August 10, 2011	August 29, 2011
28:1	August 24, 2011	September 12, 2011
28:2	September 7, 2011	September 26, 2011
28:3	September 21, 2011	October 10, 2011
28:4	October 5, 2011	October 24, 2011
28:5	October 19, 2011	November 7, 2011
28:6	November 2, 2011	November 21, 2011
28:7	November 15, 2011 (Tuesday)	December 5, 2011
28:8	November 30, 2011	December 19, 2011
28:9	December 13, 2011 (Tuesday)	January 2, 2012
28:10	December 27, 2011 (Tuesday)	January 16, 2012
28:11	January 11, 2012	January 30, 2012
28:12	January 25, 2012	February 13, 2012
28:13	February 8, 2012	February 27, 2012
28:14	February 22, 2012	March 12, 2012

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF NURSING

Initial Agency Notice

Title of Regulation: **18VAC90-20. Regulations Governing the Practice of Nursing.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Name of Petitioner: Donna C. Bond.

Nature of Petitioner's Request: The petitioner requests that regulations and/or statutes be changed to: (i) license clinical nurse specialists (CNS); (ii) ensure that CNS practice to the full extent of education, skills, and competencies; (iii) recognize national standards for competencies and behaviors of graduates of CNS programs; (iv) provide a standardized definition of the role and scope of practice for CNS; (v) allow regular monitoring of CNS workforce supply and demand; and (vi) continue to provide title protection for CNS.

Agency's Plan for Disposition of Request: The board will request comment for 21 days following publication of the petition on April 11, 2011. The board will consider the petition and any public comment at its meeting on May 17, 2011, and will make a decision whether to proceed with rulemaking or deny the petitioner's request.

Public Comment Deadline: May 2, 2011.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4515, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R11-28; Filed March 24, 2011, 1:52 p.m.

BOARD OF PSYCHOLOGY

Agency Decision

Title of Regulation: **18VAC125-30. Regulations Governing the Certification of Sex Offender Treatment Providers.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Name of Petitioner: Maria S. Stransky.

Nature of Petitioner's Request: To amend regulations for supervision of applicants for certification as sex offender treatment providers to allow a percentage of supervision sessions by videoconference.

Agency Decision: Request denied.

Statement of Reason for Decision: The February 8 meeting was delayed to March 14. The board decided to deny the petition but to request any additional information to indicate

the need for teleconferencing supervision. At the end of 2010, there were 396 persons certified to provide sex offender treatment. While the board does not keep records on work sites, it believes that a number of those persons are employed by the Department of Corrections. Therefore, the board was not convinced that teleconferencing was essential in order to have supervision available in all parts of the state.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 9960 Mayland Drive, Henrico, VA 23233, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R11-17; Filed March 15, 2011, 2:32 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending the following regulation: **9VAC25-120, General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests.** The purpose of the proposed action is to amend and reissue the existing general permit, which expires on February 25, 2013. The general permit covers point source discharges of wastewaters from sites contaminated by petroleum products and chlorinated hydrocarbon solvents and also the point source discharges of hydrostatic test wastewaters resulting from the testing of petroleum and natural gas storage tanks and pipelines.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

Public Comment Deadline: May 11, 2011.

Agency Contact: George E. Cosby, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, or email george.cosby@deq.virginia.gov.

VA.R. Doc. No. R11-2774; Filed March 22, 2011, 3:36 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to consider repealing **18VAC30-20, Regulations Governing the Practice of Audiology and Speech-Language Pathology**, and promulgating **18VAC30-21, Regulations Governing the Practice of Audiology and Speech-Language Pathology.** In order to arrange the regulations governing the practice of audiology and speech-language pathology in a more understandable, logical manner, the board will consider repealing the current chapter and promulgating a replacement

chapter. By doing so, the qualifications for each profession can be set out separately and the regulations relating to provisional licensure in audiology can be set out in one section. Substantively, the qualifications for licensure will not be changed, but the continuing education requirements will be modified to reflect annual renewals and to eliminate the Type 1 and Type 2 categories. Rather than 30 hours every two years, the board will propose a requirement of 10 hours every year with the ability to transfer or credit excess hours to the next renewal year. Additionally, the grounds for unprofessional conduct will be expanded to include problematic conduct for which the board currently has no grounds for disciplinary action.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Public Comment Deadline: May 11, 2011.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Audiology and Speech-Language Pathology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4630, FAX (804) 527-4413, or email leslie.knachel@dhp.virginia.gov.

VA.R. Doc. No. R11-2759; Filed March 28, 2011, 10:03 a.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Medicine intends to consider amending the following regulation: **18VAC85-140, Regulations Governing the Practice of Polysomnographic Technologists.** The purpose of the proposed action is to establish rules for minimal competency for licensure, continued competency for renewal of licensure, supervisory responsibilities, and standards of conduct for safe practice.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public Comment Deadline: May 11, 2011.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4621, FAX (804) 527-4429, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R11-2762; Filed March 28, 2011, 10:09 a.m.

Notices of Intended Regulatory Action

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending the following regulations: **18VAC110-20, Virginia Regulations Governing the Practice of Pharmacy and 18VAC110-50, Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen.** The purpose of the proposed action is to add administrative fees for additional services requested by regulants for duplicate licenses and verification of licensure.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 54.1-2400 and Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Public Comment Deadline: May 11, 2011.

Agency Contact: Caroline Juran, R.Ph., Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4416, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. R11-2783; Filed March 28, 2011, 10:13 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider promulgating the following regulation: **22VAC40-775, Adult Services Standards.** The purpose of the proposed action is to adopt a new regulation addressing the provision of services to elderly individuals and adults with an impairment by local departments of social services' adult services workers. Family-Based Social Services, 22VAC40-800, which is being repealed as part of another regulatory action, includes sections that address adult services. The new Adult Services Standards regulation will incorporate that content from 22VAC40-800, including principles inherent in the provision of adult services, the process for client intake and service delivery, and descriptions of the types of services that may be provided.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public Comment Deadline: May 11, 2011.

Agency Contact: Paige McCleary, Program Consultant, Department of Social Services, Division of Family Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7536, FAX (804) 726-7895, TTY (800) 828-1120, or email paige.mccleary@dss.virginia.gov.

VA.R. Doc. No. R11-2775; Filed March 23, 2011, 8:06 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider amending the following regulation: **22VAC40-661, Child Care Program.** The purpose of the proposed action is to (i) make modifications to the current child care subsidy program, (ii) facilitate the development and implementation of a statewide child care automation system, and (iii) expedite the automation process by ensuring uniform statewide child care guidance. Uniform and consistent alignment of statewide guidance is critical in the development of statewide program automation. Proposed changes include new requirements for vendors, a limitation on the fees and rates that will be paid by the program, a requirement that applicants be at least 18 years of age, a requirement for applicants and recipients to cooperate with the Division of Child Support Enforcement as a condition of eligibility, a requirement that appellants refund the cost of services paid during the appeals process if the local department's decision is upheld, a change to the time allowed for processing applications, establishment of a standardized process to hear cases of alleged recipient fraud when the Commonwealth chooses not to prosecute, a time limitation for receipt of child care, and a requirement that overpayments made as a result of a local department error be repaid to the department with local funds.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public Comment Deadline: May 11, 2011.

Agency Contact: Mary Ward, Subsidy Program Manager, Department of Social Services, 801 E. Main Street, Richmond, VA 23219, telephone (804) 726-7638, FAX (804) 726-7655, or email mary.ward@dss.virginia.gov.

VA.R. Doc. No. R11-2776; Filed March 23, 2011, 8:12 a.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Notice of Effective Date

Title of Regulation: **1VAC20-20. Records Administration (adding 1VAC20-20-10, 1VAC20-20-20).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: March 28, 2011.

On November 22, 2010, the State Board of Elections adopted this regulation relating to requirements for transmitting records containing sensitive personal information. The final regulation was published January 3, 2011, Volume 27, Issue 9 of the Virginia Register with an effective date upon filing a notice of the United States Attorney General's preclearance with the Registrar of Regulations. The State Board of Elections hereby notices the United States Attorney General's approval of this regulation via a letter dated March 1, 2011, from T. Christian Herren, Jr., Chief, Voting Section, to Joshua N. Lief, Esq., Senior Assistant Attorney General, Office of Attorney General of Virginia. The effective date of this regulation is March 28, 2011. Copies are available online at <http://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=151>; by telephone toll-free 1-800-552-9745 or local (804) 864-8910; by written request to FOIA Coordinator, 1100 Bank Street, Richmond, VA 23219; or by email request to foia@sbe.virginia.gov.

Agency Contact: Martha Brissette, Policy Analyst, State Board of Elections, 1100 Bank St., Richmond, VA 23219, telephone (804) 864-8925, or email martha.brissette@sbe.virginia.gov.

VA.R. Doc. No. R11-2576; Filed March 28, 2011, 1:08 p.m.

Notice of Effective Date

Title of Regulation: **1VAC20-50. Candidate Qualification (adding 1VAC20-50-10, 1VAC20-50-20).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: March 28, 2011.

On November 22, 2010, the State Board of Elections adopted this regulation relating to requirements for candidate petitions. The final regulation was published January 17, 2011, Volume 27, Issue 10 of the Virginia Register with an effective date upon filing a notice of the United States Attorney General's preclearance with the Registrar of Regulations. The State Board of Elections hereby notices the

United States Attorney General's approval of this regulation via a letter dated March 2, 2011, from T. Christian Herren, Jr., Chief, Voting Section, to Joshua N. Lief, Esq., Senior Assistant Attorney General, Office of Attorney General of Virginia. The effective date of this regulation is March 28, 2011. Copies are available online at <http://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=151>; by telephone toll-free 1-800-552-9745 or local (804) 864-8910; by written request to FOIA Coordinator, 1100 Bank Street, Richmond, VA 23219; or by email request to foia@sbe.virginia.gov.

Agency Contact: Peter Goldin, Policy Analyst, State Board of Elections, 1100 Bank St., Richmond, VA 23219, telephone (804) 864-8930, FAX (804) 786-0760, or email peter.goldin@sbe.virginia.gov.

VA.R. Doc. No. R11-2572; Filed March 28, 2011, 1:08 p.m.

Notice of Effective Date

Title of Regulation: **1VAC20-60. Election Administration (adding 1VAC20-60-10, 1VAC20-60-20).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: March 28, 2011.

On November 22, 2010, the State Board of Elections adopted this regulation relating to requirements for referendum petitions. The final regulation was published January 3, 2011, Volume 27, Issue 9 of the Virginia Register with an effective date upon filing a notice of the United States Attorney General's preclearance with the Registrar of Regulations. The State Board of Elections hereby notices the United States Attorney General's approval of this regulation via a letter dated March 2, 2011, from T. Christian Herren, Jr., Chief, Voting Section, to Joshua N. Lief, Esq., Senior Assistant Attorney General, Office of Attorney General of Virginia. The effective date of this regulation is March 28, 2011. Copies are available online at <http://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=151>; by telephone toll-free 1-800-552-9745 or local (804) 864-8910; by written request to FOIA Coordinator, 1100 Bank Street, Richmond, VA 23219; or by email request to foia@sbe.virginia.gov.

Agency Contact: James B. Alcorn, Deputy Secretary, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8944, or email james.alcorn@sbe.virginia.gov.

VA.R. Doc. No. R11-2570; Filed March 28, 2011, 1:08 p.m.

Notice of Effective Date

Title of Regulation: 1VAC20-70. Absentee Voting (adding 1VAC20-70-30).

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: March 28, 2011.

On January 12, 2011, the State Board of Elections adopted this regulation relating to requirements for Federal Write-In Absentee Ballots. The final regulation was published February 14, 2011, Volume 27, Issue 12 of the Virginia Register with an effective date upon filing a notice of the United States Attorney General's preclearance with the Registrar of Regulations. The State Board of Elections hereby notices the United States Attorney General's approval of this regulation via a letter dated March 1, 2011, from T. Christian Herren, Jr., Chief, Voting Section, to Joshua N. Lief, Esq., Senior Assistant Attorney General, Office of Attorney General of Virginia. The effective date of this regulation is March 28, 2011. Copies are available online at <http://townhall.virginia.gov/L/ViewBoard.cfm?BoardID=151>; by telephone toll-free 1-800-552-9745 or local (804) 864-8910; by written request to FOIA Coordinator, 1100 Bank Street, Richmond, VA 23219; or by email request to foia@sbe.virginia.gov.

Agency Contact: Martha Brissette, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, or email martha.brissette@sbe.virginia.gov.

VA.R. Doc. No. R11-2685; Filed March 28, 2011, 1:08 p.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The following regulation filed by the Marine Resources Commission is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-280. Pertaining to Speckled Trout and Red Drum (amending 4VAC20-280-30, 4VAC20-280-40).

Statutory Authority: §§ 28.2-201 and 28.2-304 of the Code of Virginia.

Effective Date: April 1, 2011.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments modify recreational possession and size limits for speckled trout from December 1 through March 31. The modification decreases the possession limit to five speckled trout and allows harvest and possession of only one speckled trout, 24 inches or greater, from December 1 through March 31 for hand-line, hook-and-line, or rod-and-reel fishermen.

4VAC20-280-30. Size limits.

A. It shall be unlawful for any person to take, catch, or possess any speckled trout less than 14 inches in length provided however, the catch of speckled trout by pound net or haul seine may consist of up to 5.0%, by weight, of speckled trout less than 14 inches in length.

B. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand-line to possess more than one speckled trout 24 inches or greater from December 1 through March 31 of any year.

~~B. C.~~ It shall be unlawful for any person to take, catch or possess any red drum less than 18 inches in length or greater than 26 inches in length.

~~C. D.~~ Length is measured in a straight line from tip of nose to tip of tail.

4VAC20-280-40. Possession limits.

A. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand-line to possess more than 10 speckled trout from April 1 through November 30 in any year.

B. It shall be unlawful for any person fishing with hook-and-line, rod-and-reel, or hand-line to possess more than five speckled trout from December 1 through March 31 in any year.

~~B. C.~~ It shall be unlawful for any person to possess more than three red drum.

VA.R. Doc. No. R11-2649; Filed April 1, 2011, 1:34 p.m.

Emergency Regulation

Title of Regulation: 4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-40).

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: March 30, 2011, through April 29, 2011.

Regulations

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Preamble:

This emergency action establishes the unlawful offloading hours for Summer Flounder by amending 4VAC20-620. The effective dates of this amendment are March 30, 2011, through April 29, 2011.

Summary:

This amendment establishes the unlawful offloading hours for commercial purposes for Summer Flounder as 9 p.m. through 7 a.m.

4VAC20-620-40. Commercial vessel possession and landing limitations.

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From the first Monday in March through the day preceding the last Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 20,000 pounds.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the first Monday in March.
3. Land in Virginia more than 10,000 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the first Monday in March.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the last Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 15,000 pounds.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in November.
3. Land in Virginia more than a total of 7,500 pounds of Summer Flounder during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in November.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4VAC20-620-30 F.

E. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

F. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection I of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection I of this section.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the

confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of ~~6 p.m.~~ 9 p.m. to 7 a.m.

I. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

J. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30 A has been taken.

VA.R. Doc. No. R11-2786; Filed March 29, 2011, 4:24 p.m.



TITLE 5. CORPORATIONS

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **5VAC5-40. Administration of the Office of the Clerk of the Commission (amending 5VAC5-40-20).**

Statutory Authority: § 13.1-1062 of the Code of Virginia.

Effective Date: April 30, 2011.

Agency Contact: Joel Peck, Clerk of the Commission, State Corporation Commission, 1300 East Main Street, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9733, FAX (804) 692-0681, or email joel.peck@scc.virginia.gov.

Summary:

Section 13.1-1062 of the Code of Virginia permits the State Corporation Commission (SCC) to determine the schedule for assessing limited liability companies in Virginia. Currently, limited liability companies (LLC) are assessed annually in July, and assessments must be paid by the end of September. The SCC's March 17, 2011, Order Adopting a Regulation and final regulations set forth a schedule for assessing each LLC annually during the month the LLC was originally organized or registered to transact business in Virginia. The amendments to 5VAC5-40-20 merely place in regulation the schedule outlined in § 13.1-1062 B 2 of the Code of Virginia. The adopted regulation is identical to the proposed regulation.

AT RICHMOND, MARCH 17, 2011

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. CLK-2010-00009

Ex Parte: In re: annual registration fees for limited liability companies

ORDER ADOPTING A REGULATION

On January 10, 2011, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposal by the Clerk of the Commission ("Clerk") to revise an existing regulation, Rule 5VAC5-40-20, adopted pursuant to § 13.1-1062 of the Code of Virginia. The proposed revision amends the schedule by which the Commission assesses annual registration fees against limited liability companies to

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provide for such assessments to be based on the anniversary date of formation or registration to transact business in the Commonwealth, in accordance with § 13.1-1062 of the Code of Virginia. The Order and proposed regulation were published in the Virginia Register of Regulations on January 31, 2011, and on the Commission's web site. Interested parties were afforded the opportunity to provide written comments or request a hearing on or before February 16, 2011.

Two comments were filed in this matter, but no requests for a hearing were made. Mr. Chester Terry of Dale City, Virginia, requested that the amount of the annual registration fee remain the same. The proposed regulation does not provide for an increase in the amount of the registration fee paid by a limited liability company.

The second comment came from Mr. Cullen Seltzer, of Richmond, Virginia, who objected to the proposed regulation because limited liability companies formed or registered in the months of January through June would "avoid being assessed any annual registration fee for 2011." Mr. Seltzer also asserted that the proposed regulation and timetable would result in a loss of nearly \$4,000,000 in revenue to the Commonwealth. Mr. Seltzer proposed assessing in May 2011 those limited liability companies with anniversary dates in January through July.

During the development process for the proposed regulation, the Clerk evaluated various assessment options, including an assessment schedule such as proposed by Mr. Seltzer. The proposal presented by the Clerk to the Commission avoids requiring any limited liability company to pay a registration fee twice within a twelve-month period. In addition, the proposed regulation is revenue-neutral to the Commonwealth as the new schedule coincides with the start of a fiscal year.

NOW THE COMMISSION, upon consideration of the proposed regulation and applicable law, concludes that the proposed regulation should be adopted herein with an effective date of April 30, 2011.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation, 5 VAC 5-40-20, as attached hereto, is adopted effective April 30, 2011.

(2) This Order and the attached regulation shall be posted on the Commission's web site: <http://www.scc.virginia.gov/case>.

(3) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Clerk of the Commission, who shall forthwith mail a copy of this

Order, including a copy of the attached regulation, to interested parties as he may designate.

5VAC5-40-20. Assessment of limited liability companies.

Each year, the commission shall ascertain from its records each domestic limited liability company and each foreign limited liability company registered to transact business in the Commonwealth, as of ~~July 1 of each year~~ the first day of the second month preceding the month in which it was organized or registered to transact business in the Commonwealth, and shall assess against each such limited liability company the annual registration fee imposed in subsection A of § 13.1-1062 of the Code of Virginia, and, except as provided in subsection C of § 13.1-1062, that each such limited liability company shall pay the assessment due into the state treasury on or before ~~September 30 in each year after the calendar year in which it was formed~~ the last day of the 12th month next succeeding the month in which it was organized or registered to transact business in the Commonwealth, and by such date in each year thereafter; provided that the initial annual registration fee to be paid by a domestic limited liability company created by conversion shall be due in the year after the calendar year in which it converted.

Each limited liability company will be sent a notice of assessment approximately two months prior to its anniversary month of formation or registration. The assessment payment is due by the last day of the anniversary month of formation or registration. For example, a limited liability company with an anniversary month of formation or registration of July will be assessed an annual registration fee on the preceding May 1, and payment of the fee will be due on or before July 31.

VA.R. Doc. No. R11-2702; Filed March 17, 2011, 3:08 p.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Notice of Extension of Emergency Regulation

Title of Regulation: **12VAC5-613. Emergency Regulations for Alternative Onsite Sewage Systems (adding 12VAC5-613-10 through 12VAC5-613-200).**

Statutory Authority: § 32.1-164 of the Code of Virginia.

Effective Dates: April 7, 2010, through October 7, 2011.

Pursuant to § 2.2-4011 of the Code of Virginia, the Virginia Department of Health (VDH) requested a six-month extension of the above-referenced emergency regulations to complete the requirements of the Administrative Process Act. The emergency regulations were published in 26:17 VA.R. 2394-2403 April 26, 2010 (<http://register.dls.virginia.gov/vol26/iss17/v26i17.pdf>).

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Proposed Regulation

Chapter 220 of the 2009 Acts of Assembly required the State Board of Health to adopt emergency regulations establishing performance requirements and horizontal setbacks for alternative onsite sewage systems as necessary to protect public health and the environment. The emergency regulations became effective April 7, 2010, and expire April 6, 2011. A Notice of Intended Regulatory Action was published simultaneously with comment until May 26, 2010; the board received nine comments.

In June and July 2010, VDH staff identified and consulted with stakeholders and formed a technical advisory committee (TAC) to review the comments and emergency regulations. The TAC held meetings on July 9, 13, and 16, 2010. VDH considered the TAC's discussion and recommendations and drafted the proposed permanent regulations. The State Health Commissioner acted on behalf of the board to propose the regulations. The Office of the Attorney General completed its review of the regulations on August 20, 2010. Proposed regulations were submitted for executive review on August 23, 2010. The Department of Planning and Budget's approval was given on October 7, 2010, and the Secretary of Health and Human Resources' approval was given on October 28, 2010. The proposed regulations were approved by the Governor's office on November 2, 2010, and published in the Virginia Register of Regulations on December 6, 2010 (<http://register.dls.virginia.gov/vol27/iss07/v27i07.pdf>), for a 60-day comment period, which ended February 4, 2011.

Following the close of the comment period, VDH must consider the comments, revise the proposed permanent regulations as needed, and present the regulations to the State Board of Health for final approval. The Office of the Attorney General, Department of Planning and Budget, Secretary of Health and Human Resources, and Governor must review the final regulations as required by Executive Order 14 (2010). It is expected that approvals will not likely be completed in time to publish the final regulations and have them effective prior to the date that the emergency regulations expire.

The Governor approved VDH's request to extend the expiration date of the emergency regulation for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the regulations will continue in effect through October 7, 2011.

Agency Contact: Allen Knapp, Director, Division of Onsite Sewage and Wastewater Services, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7470, or email allen.knapp@vdh.virginia.gov.

VA.R. Doc. No. R10-2164; Filed March 31, 2011, 1:23 p.m.



REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: 13VAC10-10. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority (amending 13VAC10-10-80).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Information:

May 26, 2011 – 10 a.m. – Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA

Public Comment Deadline: May 26, 2011.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, or email judson.mckellar@vhda.com.

Summary:

Because of recent federal regulatory changes, the Virginia Housing Development Authority (VHDA) is restructuring its single family mortgage loan program as a mortgage purchase program whereby the loans will be originated in the name of the mortgage lenders, will be funded at closing by such lenders, and will be purchased by the authority after closing. The proposed amendments will make the requirements in the current regulations for reinvestment of loan sales proceeds and for the prudent investment certification inapplicable in the case of a mortgage loan that, when made, is to be purchased by VHDA. The proposed amendments will conform the current regulations to the amendments to § 36-55.35 of the Code of Virginia enacted in the 2011 Session of the General Assembly. The proposed amendments will also expressly recognize that the authority under the current regulations to purchase mortgage loans includes the purchase of single family mortgage loans pursuant to the regulations in 13VAC10-40.

13VAC10-10-80. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders, including, without limitation, the purchase of single family mortgage loans pursuant to 13VAC10-40. In furtherance thereof, the executive director

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may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds. ~~The foregoing~~ requirement in ~~this~~ subsection B of this section shall not apply to the purchase by the authority of a mortgage loan that, when made by the mortgage lender, is to be purchased by the authority or that is held, insured, or assisted by the federal government or any agency or instrumentality thereof.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment; provided, however, that such certification shall not be required in the case of the purchase by the authority of a mortgage loan that, when made by the mortgage lender, is to be purchased by the authority or that is held, insured, or assisted by the federal government or any agency or instrumentality thereof.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established or determined in accordance with subsection B of § 36-55.35 of the Code of Virginia.

VA.R. Doc. No. R11-2757; Filed March 17, 2011, 10:19 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Dentistry is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Dentistry will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC60-20. Regulations Governing Dental Practice (amending 18VAC60-20-195).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4538, FAX (804) 527-4428, or email sandra.reen@dhp.virginia.gov.

Background: In January 2011, the State Council of Higher Education (SCHEV) sought clarification from the Board of Dentistry about courses offered in dental radiation that claim to be in compliance with regulatory requirements of the dental board. The Executive Director of the Board of Dentistry, after consultation with board counsel, informed SCHEV that, in fact, the board has no statutory authority to approve radiation safety courses and that regulations incorrectly state that there are guidelines or criteria for such approval.

Given the dilemma created by the existence of a regulation for which statutory authority does not exist and the problems for students who want to be certified and for schools seeking to offer radiation safety courses, the board has acted to eliminate the provision in 18VAC60-20-195 that references compliance with guidelines of the board. Three options for radiation safety certification remain: (i) completion of a course and examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) certification by the American Registry of Radiologic Technologists, or (iii) satisfactory completion of a radiation course and passage of an examination given by the Dental Assisting National Board.

Summary:

The amendment eliminates a reference to compliance with guidelines of the Board of Dentistry as an option for approval of radiation safety courses.

18VAC60-20-195. Radiation certification.

No person not otherwise licensed by this board shall place or expose dental x-ray film unless he has (i) satisfactorily completed a course or examination recognized by the Commission on Dental Accreditation of the American Dental Association, (ii) been certified by the American Registry of Radiologic Technologists, or (iii) satisfactorily completed a course and passed an examination in compliance with guidelines provided by the board, or (iv) satisfactorily completed a radiation course and passed an examination given by the Dental Assisting National Board. Any certificate issued pursuant to satisfying the requirements of this section shall be posted in plain view of the patient.

VA.R. Doc. No. R11-2754; Filed March 24, 2011, 1:52 p.m.

TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of State Police will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **19VAC30-20. Motor Carrier Safety Regulations (repealing 19VAC30-20-115).**

Statutory Authority: § 52-8.4 of the Code of Virginia; 49 CFR Part 390.

Effective Date: May 11, 2011.

Agency Contact: Lieutenant Colonel Robert Kemmler, Regulatory Coordinator, Department of State Police, Bureau of Administrative and Support Services, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-4606, FAX (804) 674-2234, or email robert.kemmler@vsp.virginia.gov.

Summary:

The amendment repeals the exemption for private motor carriers operated wholly in intrastate commerce from 49 CFR 390.21, which relates to marking of self-propelled commercial motor vehicles and intermodal equipment. The repeal of 19VAC30-20-115 is necessary to comply with changes in the controlling Federal Motor Carrier Regulations (49 CFR Parts 390 through 397) as permitted by § 52-8.4 of the Code of Virginia.

19VAC30-20-115. Marking of commercial motor vehicles § 390.21. (Repealed.)

~~This section does not apply to private motor carriers operated wholly in intrastate commerce, except for private motor carriers subject to a hazardous materials safety permit pursuant to 49 CFR Part 385 Subpart E.~~

VA.R. Doc. No. R11-2756; Filed March 17, 2011, 3:37 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF TRANSPORTATION

REGISTRAR'S NOTICE: The Department of Transportation is claiming an exemption from the Administrative Process Act for the following regulations in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Transportation will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Final Regulation

Title of Regulation: **24VAC30-72. Access Management Regulations: Principal Arterials (amending 24VAC30-72-20, 24VAC30-72-30, 24VAC30-72-40, 24VAC30-72-60, 24VAC30-72-150, 24VAC30-72-170).**

Statutory Authority: § 33.1-198.1 of the Code of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Paul Grasewicz, AICP, Access Management Program Administrator, Department of Transportation, Maintenance Division, 1401 East Broad Street, Richmond, VA 23230, telephone (804) 662-9721, FAX (804) 662-9405, or email paul.grasewicz@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151); (ii) remove references to the recently repealed Minimum Standards of Entrances to State Highways (24VAC30-71); (iii) remove division names, particularly in the documents incorporated by reference section, to accommodate changes in division names and transfer of responsibilities within VDOT; and (iv) correct minor typographical errors.

24VAC30-72-20. Authority to regulate entrances to highways.

A. VDOT's authority to regulate highway entrances and manage access to highways is provided in §§ 33.1-13, 33.1-

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197, 33.1-198, 33.1-198.1, and 33.1-199 of the Code of Virginia, and its authority to make regulations concerning the use of highways generally is provided in § 33.1-12 (3) of the Code of Virginia. Each proposed highway entrance creates a potential conflict point that impacts the safe and efficient flow of traffic on the highway; therefore, private property interests in access to the highway must be balanced with public interests of safety and mobility. Managing access to highways can reduce traffic congestion, help maintain the levels of service, enhance public safety by decreasing traffic conflict points, support economic development by promoting the efficient movement of people and goods, reduce the need for new highways and road widening by improving the performance of existing highways, preserve the public investment in new highways by maximizing their efficient operation, and better coordinate transportation and land use decisions.

B. Where a plan of development with the specific location of an entrance or entrances was proffered pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303 of the Code of Virginia prior to July 1, 2008, such entrances shall be exempt from the spacing standards for entrances and intersections in Appendix F of the Road Design Manual (see ~~24VAC30-70-170~~ 24VAC30-72-170 A) provided the requirements of § 15.2-2307 of the Code of Virginia have been met. Entrances shown on a subdivision plat, site plan, preliminary subdivision plat that is valid pursuant to §§ 15.2-2260 and 15.2-2261 approved in accordance with §§ 15.2-2286 and 15.2-2241 through 15.2-2245 prior to July 1, 2008, shall be exempt from the spacing standards for entrances and intersections in Appendix F of the Road Design Manual.

C. The Commonwealth Transportation Board has the authority to designate highways as limited access and to regulate access rights to those facilities as provided in § 33.1-58 of the Code of Virginia. No private or commercial entrances shall be permitted within limited access rights-of-way except as may be provided for by the regulation titled Change of Limited Access Control (24VAC30-401).

D. ~~Notwithstanding Part IV (24VAC30-150-1680 et seq.) of the Land Use Permit Manual and the Minimum Standards of Entrances to State Highways (24VAC30-71) after the effective implementation date as set forth in 24VAC30-72-30~~ The VDOT district administrators or their designees are authorized to issue private entrance permits and commercial entrance permits in accordance with the provisions of this chapter.

E. In cases where the provisions and requirements of this chapter conflict with the Land Use Permit Manual (~~24VAC30-150~~) and the Minimum Standards of Entrances to State Highways (~~24VAC30-71~~) Regulations (see 24VAC30-72-170 G), the provisions and requirements of this chapter shall govern.

24VAC30-72-30. Application to principal arterials.

A. This chapter shall apply on July 1, 2008, to highways with a functional classification as a principal arterial.

B. Entrance permits to a highway that does not have a functional classification as a principal arterial shall be governed by the provisions of the ~~Land Use Permit Manual (24VAC30-150) and the Minimum Standards of Entrances to State Highways (24VAC30-71)~~ Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73).

C. The commissioner shall annually update and publish maps of the Commonwealth on the VDOT website that show all highways with a functional classification as a principal arterial.

24VAC30-72-40. Administrative procedures and rules for obtaining commercial and private entrance permits.

All applications for entrance permits shall be obtained from and submitted to the district administrator's designee for the county in which the work is to be performed. The permit applicant shall submit the permit application form, and the entrance permit, if approved, will be issued in accordance with the applicable administrative rules, requirements, and procedures of this chapter and the Land Use Permit Manual (~~24VAC30-150~~) Regulations (see 24VAC30-72-170 G).

24VAC30-72-60. General provisions governing commercial and private entrances.

A. No entrance of any nature may be constructed within the right-of-way until the location has been approved by VDOT and an entrance permit has been issued. The violation of any provision of this chapter and any condition of approval of an entrance permit shall be subject to the penalties for violations specified in the Land Use Permit Manual (~~24VAC30-150~~) Regulations (see 24VAC30-72-170 G).

B. VDOT will permit reasonably convenient access to a parcel of record. VDOT is not obligated to permit the most convenient access, nor is VDOT obligated to approve the permit applicant's preferred entrance location or entrance design. If a parcel is served by more than one road in the systems of state highways, the district administrator's designee shall determine upon which road or roads the proposed entrance or entrances is or are to be constructed.

C. When two or more properties are to be served by the same entrance, the permit applicant shall ensure that there is a recorded agreement between the parties specifying the use and future maintenance of the entrance. A copy of this recorded agreement shall be included in the entrance permit application submitted to the district administrator's designee. The shared entrance shall be identified on any site plan or subdivision plat of the property.

D. The district administrator's designee may require the permit applicant to alter any proposed entrance location or design, whether private or commercial, to obtain the best possible operational characteristics, including, but not limited to, sight distance and entrance spacing.

E. Entrance standards established by localities that are stricter than those of VDOT shall govern.

24VAC30-72-150. Temporary entrances (construction/logging entrances).

A. Construction of temporary construction or logging entrances upon the systems of state highways shall be authorized in accordance with the provisions in the Land Use Permit ~~Manual (24VAC30-150)~~ Regulations (see 24VAC30-72-170 G). The permit applicant must contact the appropriate district administrator's designee to approve the location prior to installing an entrance or utilizing an existing entrance. The district administrator's designee shall also be contacted to arrange and conduct a final inspection prior to closing a temporary construction or logging entrance. In the event that adequate sight distance is not achieved, additional signage that meets the Manual on Uniform Traffic Control Devices standards (see 24VAC30-72-170 D) and certified flaggers shall be used to ensure safe ingress and egress.

B. Entrances shall be designed and operated in such a manner as to prevent mud and debris from being tracked from the site onto the highway's paved surface. If debris is tracked onto the highway, it shall be removed by the permittee immediately as directed by the district administrator's designee.

C. The permittee must restore, at the permittee's cost, all disturbed highway rights-of-way, including, but not limited to, ditches, shoulders, roadside and pavement, to their original condition when removing the entrance. All such restorations are subject to approval by the district administrator's designee.

24VAC30-72-170. Documents incorporated by reference.

A. Road Design Manual (effective January 1, 2005, revised July 2008)

Note: Appendix F (Access Management Design Standards for Entrances and Intersections) contains the access management standards referenced in Chapters 863 and 928 of the 2007 Acts of Assembly and Chapters 274 and 454 of the 2008 Acts of Assembly.

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

B. 2007 Road and Bridge Specifications (effective July 2008)

~~Scheduling and Contract Division (VDOT) VDOT
State Contract Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

C. Road and Bridge Standards (effective February 1, 2001)

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

D. The Manual on Uniform Traffic Control Devices for Streets and Highways, 2003 Edition (effective December 22, 2003, revised November 2004)

Federal Highway Administration
Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, PA 15250-7954

E. A Policy on Geometric Design of Highways and Streets, Fifth Edition, 2004

American Association of State Highway and Transportation Officials (AASHTO)
444 North Capitol St. N.W., Suite 225
Washington, D.C. 20001

F. Change of Limited Access Control, 24VAC30-401

~~Traffic Engineering Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

G. Land Use Permit ~~Manual, 24VAC30-150~~ Regulations, 24VAC30-151

~~Asset Management Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

H. Policy for Integrating Bicycle and Pedestrian Accommodations, eff. March 18, 2004

~~Asset Management Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

I. Highway Capacity Manual 2000

Transportation Research Board
500 Fifth Street, NW
Washington, DC 20001

Regulations

J. Traffic Impact Analysis Regulations, 24VAC30-155

~~Asset Management Division (VDOT) VDOT~~
1401 E. Broad St.
Richmond, VA 23219

~~K. Minimum Standards of Entrances to State Highways, 24VAC30-71~~

~~Traffic Engineering Division~~
~~1401 E. Broad St.~~
~~Richmond, VA 23219~~

VA.R. Doc. No. R11-2156; Filed March 22, 2011, 9:41 a.m.

Final Regulation

Title of Regulation: **24VAC30-73. Access Management Regulations: Minor Arterials, Collectors, and Local Streets (amending 24VAC30-73-20, 24VAC30-73-40, 24VAC30-73-150, 24VAC30-73-170).**

Statutory Authority: § 33.1-198 of the Code of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Paul Grasewicz, AICP, Access Management Program Administrator, Department of Transportation, Maintenance Division, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-0778, FAX (804) 662-9405, or email paul.grasewicz@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151); (ii) remove references to the recently repealed Minimum Standards of Entrances to State Highways (24VAC30-71); and (iii) remove division names, particularly in the documents incorporated by reference section, to accommodate changes in division names and transfer of responsibilities within VDOT.

24VAC30-73-20. Authority to regulate entrances to highways.

A. VDOT's authority to regulate highway entrances and manage access to highways is provided in §§ 33.1-13, 33.1-197, 33.1-198, 33.1-198.1, and 33.1-199 of the Code of Virginia, and its authority to make regulations concerning the use of highways generally is provided in § 33.1-12 (3) of the Code of Virginia. Each proposed highway entrance creates a potential conflict point that impacts the safe and efficient flow of traffic on the highway; therefore, private property interests in access to the highway must be balanced with public interests of safety and mobility. Managing access to highways can reduce traffic congestion, help maintain the levels of service, enhance public safety by decreasing traffic conflict points, support economic development by promoting the efficient movement of people and goods, reduce the need for new highways and road widening by improving the

performance of existing highways, preserve the public investment in new highways by maximizing their efficient operation, and better coordinate transportation and land use decisions.

B. The Commonwealth Transportation Board has the authority to designate highways as limited access and to regulate access rights to those facilities as provided in § 33.1-58 of the Code of Virginia. No private or commercial entrances shall be permitted within limited access rights-of-way except as may be provided for by the regulation titled Change of Limited Access Control (24VAC30-401).

~~C. Notwithstanding Part IV (24VAC30-150-1680 et seq.) of the Land Use Permit Manual, after the effective implementation date as set forth in 24VAC30-73-30, the The district administrators or their designees are authorized to issue private entrance permits and commercial entrance permits in accordance with the provisions of this chapter.~~

~~D. In cases where the provisions and requirements of this chapter conflict with the Land Use Permit Manual (24VAC30-150) or the Minimum Standards of Entrances to State Highways (24VAC30-71) Regulations (see 24VAC30-73-170 G), the provisions and requirements of this chapter shall govern.~~

24VAC30-73-40. Administrative procedures and rules for obtaining commercial and private entrance permits.

All applications for entrance permits shall be obtained from and submitted to the district administrator's designee for the county in which the work is to be performed. The permit applicant shall submit the permit application form, and the entrance permit, if approved, will be issued in accordance with the applicable administrative rules, requirements and procedures of this chapter and the Land Use Permit Manual (24VAC30-150) Regulations (see 24VAC30-73-170 G).

24VAC30-73-150. Temporary entrances (construction/logging entrances).

A. Construction of temporary construction or logging entrances upon the systems of state highways shall be authorized in accordance with the provisions in the Land Use Permit Manual Regulations (see 24VAC30-73-170 G). The permit applicant must contact the appropriate district administrator's designee to approve the location prior to installing an entrance or utilizing an existing entrance. The district administrator's designee shall also be contacted to arrange and conduct a final inspection prior to closing a temporary construction or logging entrance. In the event that adequate sight distance is not achieved, additional signage that meets the Manual on Uniform Traffic Control Devices standards (see 24VAC30-73-170 D) and certified flaggers shall be used to ensure safe ingress and egress.

B. Entrances shall be designed and operated in such a manner as to prevent mud and debris from being tracked from

the site onto the highway's paved surface. If debris is tracked onto the highway, it shall be removed by the permittee immediately as directed by the district administrator's designee.

C. The permittee must restore, at the permittee's cost, all disturbed highway rights-of-way, including, but not limited to, ditches, shoulders, and pavement, to their original condition when removing the entrance. All such restorations are subject to approval by the district administrator's designee.

24VAC30-73-170. Documents incorporated by reference.

A. Road Design Manual (effective January 1, 2005, revised October 2009).

Note: Appendices F and G (Access Management Design Standards for Entrances and Intersections) contains the access management standards referenced in Chapters 863 and 928 of the 2007 Acts of Assembly and Chapters 274 and 454 of the 2008 Acts of Assembly.

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

B. 2007 Road and Bridge Specifications (effective July 2008).

~~Scheduling and Contract Division (VDOT) VDOT
State Contract Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

C. 2008 Road and Bridge Standards (effective June 2009).

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer
1401 E. Broad Street
Richmond, Virginia 23219~~

D. The Manual on Uniform Traffic Control Devices for Streets and Highways, 2003 Edition (effective December 22, 2003, revised November 2004).

Federal Highway Administration
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444 North Capitol St. N.W., Suite 225
Washington, D.C. 20001

F. Change of Limited Access Control, 24VAC30-401.

~~Traffic Engineering Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

G. Land Use Permit ~~Manual Regulations~~, 24VAC30-150 24VAC30-151.

~~Maintenance Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

H. Policy for Integrating Bicycle and Pedestrian Accommodations, eff. March 18, 2004.

~~Maintenance Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

I. Highway Capacity Manual, 2000.

Transportation Research Board
500 Fifth Street, NW
Washington, DC 20001

J. Traffic Impact Analysis Regulations, 24VAC30-155.

~~Maintenance Division (VDOT) VDOT
1401 E. Broad St.
Richmond, VA 23219~~

K. Instructional and Informational Memorandum IIM-LD-227.3, eff. May 23, 2007.

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer
1401 E. Broad Street
Richmond, VA 23219~~

L. Secondary Street Acceptance Requirements, 24VAC30-92, eff. March 9, 2009.

~~Maintenance Division (VDOT) VDOT
1401 E. Broad Street
Richmond, VA 23219~~

VA.R. Doc. No. R11-2197; Filed March 22, 2011, 9:42 a.m.

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The Commonwealth Transportation Board is claiming an exemption from the Administrative Process Act for the following regulations in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Commonwealth Transportation Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Final Regulation

Title of Regulation: **24VAC30-91. Subdivision Street Requirements (amending 24VAC30-91-10, 24VAC30-91-50, 24VAC30-91-60, 24VAC30-91-70, 24VAC30-91-110, 24VAC30-91-120, 24VAC30-91-160).**

Statutory Authority: §§ 33.1-12, 33.1-69, 33.1-198, and 33.1-229 of the Code of Virginia.

Effective Date: May 11, 2011.

Regulations

Agency Contact: Kenneth M. Smith, Transportation Program Supervisor, Department of Transportation, Maintenance Division, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-2745, FAX (804) 786-2603, or email ken.smith@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151); (ii) remove or change division names and position titles, particularly in the documents incorporated by reference section, to accommodate changes in division names and transfer of responsibilities within VDOT; and (iii) correct minor typographical errors.

Part I
General Provisions

24VAC30-91-10. Definitions.

The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"AASHTO" means the American Association of State Highway and Transportation Officials.

"Abandon" in all its forms means the legislative action reserved for and granted to the local governing body to extinguish the public's right to a roadway under the jurisdiction of the Virginia Department of Transportation, pursuant to §§ 33.1-151 and 33.1-155 of the Code of Virginia.

"Accessible route" means a continuous unobstructed, stable, firm and slip-resistant path connecting all accessible elements of a facility (may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts) that can be approached, entered and used by persons with disabilities. An accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

"ADT" means average daily traffic count (see "Projected Traffic").

"Board" means the Commonwealth Transportation Board.

"Clear zone" means the total border area of a roadway or shared use path that is sufficiently wide for an errant vehicle to avoid a serious accident. (See the Subdivision Street Design Guide (24VAC30-91-160) for details.)

"Commissioner" means the chief executive officer of the Virginia Department of Transportation.

"Complete development (land)" means the utilization of the available areas in a manner as to realize its highest density for the best potential use based on zoning, pending rezoning, the adopted comprehensive plan of the governing body, or the customary use of similar parcels of land.

"Complete development (streets)" means the development of a subdivision street in full compliance with all applicable provisions of these regulations to the necessary standards of design and construction for the effective and efficient accommodation of the traffic generated by the complete development of the land, both internal and external to the subdivision.

"County controlled grade separation structure" means a grade separation structure that does not qualify for maintenance by the department but was established within the right-of-way of a street intended for state maintenance.

"County official" means the representative of the governing body appointed to serve as its agent in matters relating to subdivisions.

"Cul-de-sac" means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement and more specifically the turning area.

"Dam" means an embankment or structure intended or used to impound, retain, or store water, either as a permanent pond or as a temporary storage facility.

"Department" means the Virginia Department of Transportation.

"Design manual" means the department's Road Design Manual (see 24VAC30-91-160), Location and Design Division.

"Design speed" means a speed selected for purposes of design and correlation of those features of a street such as curvature, super elevation, and sight distance, upon which the safe operation of vehicles is dependent.

"Developer" means an individual, corporation, or registered partnership engaged in the subdivision of land.

~~"Director of the Local Assistance Division" means the department employee responsible for overseeing all programs administered by the Local Assistance Division, including these requirements and the final acceptance of streets as part of the secondary system of state highways maintained by the department or his designee.~~

"Discontinue," in all its forms, means the legislative act of the Commonwealth Transportation Board, pursuant to § 33.1-150 of the Code of Virginia, that determines that a road no longer serves public convenience warranting its maintenance with funds at the disposal of the department.

"District administrator" means the department employee assigned the overall supervision of the departmental operations in each of the Commonwealth's nine construction districts.

"Drainage manual" means the department's Drainage Manual (see 24VAC30-91-160), Location and Design Division.

"Dwelling unit" means a structure or part of a structure containing sleeping, kitchen, and bathroom facilities that is suitable for occupancy as a home or residence by one or more persons.

"Easement" means a grant of a right to use property of an owner for specific, limited use or purpose.

"Functional classification" means the process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.

"Governing body" means the board of supervisors of the county but may also mean the local governing body of a town or city, if appropriate, in the application of these requirements.

"Intersection" means the juncture of two or more streets at which point there are three or more legs.

"Level of service" means a qualitative measure describing operational conditions within a traffic stream, and their perception by motorists and passengers. For the purposes of these requirements, the applicable provisions of the Highway Capacity Manual (see 24VAC30-91-160) shall serve as the basis for determining "levels of service."

"Level terrain" means that condition where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made so without construction difficulty or major expense.

"Loop street" means a street whose two outlets are to the same street.

"Mountainous terrain" means that condition where longitudinal and traverse changes in the elevation of the ground with respect to the road or street are abrupt and where benching and side hill excavation are frequently required to obtain acceptable horizontal and vertical alignment.

"Neotraditional development" means a type of subdivision that creates a neighborhood or community design with qualities of a traditional small town, combining a mix of uses that may include retail establishments, offices, civic buildings, public squares, and multi-family and single-family housing, all within walking distance of one another, as well as a mix of transportation facilities that focuses on the needs of pedestrians and bicyclists in addition to the needs of motorists. These developments may include a variety of buildings and land use densities along the same street. Street layout may follow a grid pattern using narrow streets and having multiple connections to surrounding neighborhoods. These developments may be referred to as "villages" or "hamlets" within the ordinances of the governing body.

"Nonresidential street" means a subdivision street adjacent to property that is anticipated to develop for purposes other than residential use.

"Office building" means a building that is used primarily for conducting business transactions other than retail sales.

"Parking bay" means an off-street area for parking two or more vehicles that are served by a short driveway connecting the parking area and the public street.

"Parking lane" means an area, generally seven or eight feet in width, adjacent to and parallel with the travel lane of a roadway that is used for parking vehicles.

"Pavement Design Guide" means the Pavement Design Guide for Subdivision and Secondary Roads in Virginia (see 24VAC30-91-160).

"~~Permit Manual~~ Regulations" means the department's Land Use Permit ~~Manual~~ (24VAC30-150) Regulations (see 24VAC30-91-160).

"Phased development" (streets) means the method outlined in 24VAC30-91-70 (Phased development of subdivision streets) whereby the acceptance of certain subdivision streets into the secondary system of state highways may be considered before being completely developed in accordance with all applicable requirements (e.g., two lanes of a four-lane facility are considered for acceptance in advance of lanes 3 and 4 being finished).

"Plans" means the standard drawings, including profile and roadway typical section, that show the location, character, dimensions and details for the proposed construction of the subdivision street.

"Plat" means the schematic representation of the land divided or to be divided.

"Private streets" means subdivision streets that have not been dedicated to public use or that require the permission or invitation of a resident or owner to use the street. Such streets are not intended to be included in the secondary system of state highways maintained by the department.

"Privately maintained streets" means any public or private street that is not maintained by the department or the local governing body.

"Projected traffic" means the number of vehicles, normally expressed in average daily traffic (ADT), forecast to travel over the segment of the subdivision street involved.

"Public street" means a street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

"Requirements" means the design, construction, and related administrative considerations herein prescribed for the acceptance of a subdivision street for maintenance by the department as part of the secondary system of state highways.

"Resident engineer" means the department employee ~~assigned to supervise departmental operations within a~~

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~~specified geographical portion of the Commonwealth, consisting of one to four counties, or his designee. In the context of either this regulation or the Subdivision Street Design Guide (24VAC30-91-160), the term can also refer to:~~

- ~~1. In districts having centralized functions for the review and approval of subdivision plans, either:
 - ~~a. The district land development manager for functions related to plan approval;~~
 - ~~b. The residency permit manager for functions related to construction, inspection, and acceptance of streets; or~~
 - ~~c. Any other position specifically designated to perform the functions described in subdivisions 1a and 1b of this definition or employees designated by the district administrator to oversee the implementation of this regulation.~~~~
2. In cities and towns that maintain and operate their own system of streets and elect to use the pavement and right-of-way width requirements of the Subdivision Street Design Guide (24VAC30-91-160) as a basis for street maintenance payments under the provisions of § 33.1-41.1 of the Code of Virginia, as well as the counties of Arlington and Henrico, the local official responsible for the review and approval of subdivision street design.

"Residential street" means a subdivision street adjacent to property that is anticipated to develop as single-family residences, apartment buildings, or other similar dwelling structures.

"Right-of-way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street designated to become part of the secondary system of state highways.

"Roadway" means the portion of the road or street within the limits of construction and all structures, ditches, channels, etc., necessary for the correct drainage thereof.

"Secondary system of state highways" means those public roads, streets, bridges, etc., established by a local governing body pursuant to § 33.1-229 of the Code of Virginia and subsequently accepted by the department for supervision and maintenance under the provisions of Articles 6 (§ 33.1-67 et seq.) and 11 (§ 33.1-150 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia.

"Shared use path" means a facility, as defined in § 46.2-100 of the Code of Virginia, that is set apart from the travelway and intended to be used by pedestrians and bicyclists.

"Shopping center" means a building or buildings containing two or more stores that are used primarily for retail sales but may include commercial trade or professional uses.

"Single-family residence" means a structure, other than an apartment building, maintained and used as a single dwelling unit or any dwelling unit that has direct access to a street and

shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

"Specifications" means the department's Road and Bridge Specifications (24VAC30-91-160), including related supplemental specifications and special provisions.

"Standards" means the applicable drawings and related criteria contained in the department's Road and Bridge Standards (24VAC30-91-160).

"Subdivision" means the division of a lot, tract, or parcel into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Any resubdivision of a previously subdivided tract or parcel of land shall also be interpreted as a "subdivision." The division of a lot or parcel permitted by § 15.2-2244 of the Code of Virginia will not be considered a "subdivision" under this definition, provided no new road or street is thereby established. However, any further division of such parcels shall be considered a "subdivision."

"Subdivision street" means a public way for purposes of vehicular travel that results from the subdivision of land, including the entire area within the right-of-way. Public streets developed in accordance with these requirements and meeting the necessary public service provisions established herein shall be eligible for addition to the secondary system of state highways maintained by the department. Streets primarily intended to access property abutting or in the immediate vicinity of the street are deemed "local" subdivision streets.

"Subdivision Street Design Guide" means Appendix B of the Road Design Manual (24VAC30-91-160).

"Swale" means a broad depression within which stormwater may drain during inclement weather, but which does not have a defined bed or banks.

"Through street" means a street that provides access between two other streets.

"Traveled way" means the portion of the subdivision street designated for the movement of vehicles, exclusive of shoulders, parking areas, turn lanes, etc.

"VDOT" means the Virginia Department of Transportation.

"VPD" means vehicles per day.

"VPH" means vehicles per hour.

"Watercourse" means a definite channel with bed and banks within which water flows, either continuously or in season.

24VAC30-91-50. Service requirements.

A. Service consideration. A street may only be accepted by the department for maintenance as part of the secondary system of state highways if it renders sufficient public service

to justify expending public funds for its subsequent maintenance.

In the event the governing body requests the addition of a street before it meets these public service provisions, the resident engineer will review each request on an individual case basis and determine if the acceptance of a street prior to normal service requirements is justified. However, prior to deferring acceptance based solely on service requirements, the resident engineer shall confer with the ~~Director of the Local Assistance Division~~ appropriate Central Office Division Administrator or other designee appointed by the commissioner.

The public service requirements of this subsection may be waived for cul-de-sac streets less than 0.25 miles in length when the acceptance of the street or streets will complete the acceptance of all streets within the subject section of the subdivision.

B. Criteria. For the purpose of these requirements, public service may include, but is not necessarily limited to, streets meeting one or more of the following situations:

1. Serves three or more occupied units of varied proprietorship with a unit being a single-family residence, owner-occupied apartment, owner-occupied residence in a qualifying manufactured home park, a stand-alone business, or single business entity occupying an individual building, or other similar facility. However, streets providing service in settings similar to an apartment building setting will only be considered for acceptance if the street is well defined and appears to be a street rather than a travel way through a parking lot.
2. Constitutes a connecting link between other streets that qualify from the point of public service.
3. Provides an extension of a street to the subdivision boundary to facilitate the continuity of possible adjacent development, if required by local ordinance. Such streets shall normally incorporate an adequate means for vehicles to turn around and reverse direction.
4. Serves as access to schools, churches, public sanitary landfills, transfer stations, public recreational facilities, or similar facilities open to public use.
5. Serves at least 100 vehicles per day generated by an office building, industrial site, or other similar nonresidential land use in advance of the occupancy of three or more such units of varied proprietorship. Any addition under this provision shall be limited to the segment of a subdivision street that serves this minimum projected traffic and has been developed in compliance with these requirements.
6. Constitutes a part of the network of streets envisioned in the transportation plan or element of a county's

comprehensive plan that, at the time of acceptance, serves an active traffic volume not less than 100 vehicles per day.

C. Apartment and retail shopping complexes. A through street that serves a shopping center or rental apartment building may be considered for maintenance as part of the secondary system of state highways if it is deemed by the department to provide a public service. However, internal streets in these complexes do not normally qualify for addition to the system because their operation and maintenance are considered to be a responsibility of the owner, who stands to profit, rather than the tenant or customer.

1. However, a street that serves as the principal access to rental apartment buildings may be considered to provide public service if unrestricted public use is permitted and maintenance continuity is practical.

2. Entrance streets and the internal traffic circulation system of shopping centers and apartment complexes qualify only if more than three property owners are served and the street is separated from the parking areas.

3. Streets serving manufactured home parks may only be considered if the residents of the park own the land occupied in fee simple.

D. Special exceptions. There may be other sets of circumstances that could constitute public service. Consequently, any request for clarification regarding unclear situations should be made in writing to the resident engineer. The resident engineer should then consult the ~~Director of the Local Assistance Division~~ appropriate Central Office Division Administrator or other designee appointed by the commissioner for resolution.

24VAC30-91-60. Administrative procedure.

A. Conceptual subdivision sketch. Prior to preparing detailed construction plans for review, the resident engineer shall be provided a preliminary plan of the entire development, prepared by the developer, that shows sufficient information for VDOT to review and concur with the functional classification proposed for each street in the subdivision. Any preliminary or conceptual plat, plan or sketch that conforms to the locality's zoning requirements or subdivision ordinance is acceptable if the required information is shown. The submittal should include:

1. The general location and configuration, including the terminus, of each street, including the traffic volume anticipated when the land served is fully developed in accordance with the land uses anticipated.
2. The location and area of each type of permitted land use within the subdivision.

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3. The location of any proposed transportation facility, within the subdivision's boundaries, included in the comprehensive plan of the governing body.
4. The proposed functional classification for each street in the subdivision.
5. Other available information pertinent to the intended development of the subdivision, including but not limited to any proposed phased development of streets pursuant to 24VAC30-91-70 (Phased development of subdivision streets).

The resident engineer will review the layout and functional classification of streets shown in the concept plan and notify the appropriate county official in writing, as well as the developer, if applicable, of his concurrence or recommendations. Approval of the conceptual plan or subdivision sketch shall be considered concurrence only in the functional classifications and layout of the streets and is deemed to satisfy any requirement for notification to the county official. This approval or concurrence will be valid as long as the basic concept for the subdivision's development, as submitted for review, remains unchanged.

B. Plan submission. Plats or plans, or both, together with other pertinent data as herein prescribed, shall be submitted to appropriate officials in the local government and to the responsible resident engineer in accordance with the practices of the local government for all proposed subdivisions whose streets are intended to be added to the secondary system of state highways maintained by the department. The resident engineer may, subject to the availability of staff and upon the request of a county, cooperate in the review of proposed subdivisions to be developed to these standards but not initially intended for addition to the secondary system of state highways maintained by the department. VDOT may recover the costs for this service in accordance with 24VAC30-91-140 (Surety and fees).

C. Plan review. Upon receipt of the plats or plans, or both, the resident engineer will arrange for the appropriate review to determine compliance with all applicable requirements. The general procedure for this review is described in 24VAC30-91-150 (Subdivision street development, plan review, and acceptance).

D. Plan approval. The resident engineer will advise the appropriate county official and the developer, if applicable, as to the results of the review.

1. If the street development proposed by the plats or plans, or both, is determined to be in compliance with these requirements, the resident engineer will provide written confirmation of this finding. This action signifies the resident engineer's approval of the street design shown on the plats or plans, as submitted. Any subsequent revision, additions, or deletions thereto shall require specific written approval of the resident engineer for each such change.

2. If a revision of the submitted plats or plans is determined necessary, the resident engineer will list the required changes in a written response to the county official and the developer, if applicable. Upon completion of the specified revisions, the plats or plans will be resubmitted for review and approval by the resident engineer as prescribed in 24VAC30-91-150 (Subdivision street development, plan review, and acceptance).

The department's approval of a subdivision street construction plan shall constitute its commitment to accept the streets depicted thereon when all applicable provisions of these requirements are satisfied and the streets have been constructed according to the approved construction plan and supporting specifications. However, during VDOT's inspection of construction, if a situation is discovered that was not addressed on the approved plan that could, in the opinion of the resident engineer, adversely affect public safety or the integrity of either the roadway or the adjacent property, acceptance of the street shall be deferred until the situation is corrected.

The department's approval of a subdivision street construction plan shall expire after a period of three years if construction has not commenced, in which case the subdivision street construction plan shall be resubmitted for subsequent review and approval. This shall not affect the adequacy of the approved concept plan as depicted on a recorded final plat, as provided for under § 15.2-2241 of the Code of Virginia.

E. Street acceptance. Upon the satisfactory completion of construction of the subdivision street, the department will advise the local governing body regarding the street's readiness for acceptance and the governing body, in consultation with the resident engineer, will initiate its acceptance into the secondary system of state highways maintained by the department provided:

1. The developer dedicates the prescribed right-of-way to public use.
2. The street has been constructed in accordance with the applicable specifications, standards and the plats or plans approved by the department.
3. The street renders a public service as prescribed in 24VAC30-91-50 (Service requirements) or as may otherwise be approved under those provisions.
4. The street has been properly maintained since its completion.
5. The developer furnishes the surety and fees in accordance with 24VAC30-91-140 (Surety and fees).
6. The governing body has executed all agreements prescribed by these requirements, unless specifically waived on an individual case basis by the ~~Director of the Local Assistance Division~~ appropriate Central Office

Division Administrator, or other designee appointed by the commissioner.

7. The governing body, by proper resolution, requests the department to accept the street or streets for maintenance as part of the secondary system of state highways under its jurisdiction. The resolution shall include the governing body's guarantee of an unrestricted and unencumbered right-of-way as dedicated, plus any necessary easements for fills, drainage, or sight distance.

Upon the department's determination that the requested addition is in compliance with the applicable provisions of these requirements, the governing body will be officially advised of the street's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the resident engineer's authority to begin maintenance thereon.

24VAC30-91-70. Phased development of subdivision streets.

A. Policy. Certain subdivision streets that require four or more travel lanes to accommodate the projected traffic may be accepted by the department for maintenance after completion of the first two lanes to an acceptable, initial phase of construction, upon the request of the governing body. It is recognized that there is a distinction between those streets that benefit the overall transportation network and those that primarily serve the development of land and, therefore, the criteria for phased construction for each situation differs as described in subsection B of this section.

However, in all cases, the right-of-way required for the road at its complete stage of construction shall be dedicated and accepted as part of the initial street acceptance. In addition, the initial phase of construction shall be designed and constructed to facilitate construction of the remaining phase in a manner that will avoid the need to reconstruct the initial two lanes.

Consideration for the acceptance of any street under the provisions of this section shall be limited to the phased development of only the street's roadway. All other applicable requirements, e.g., public service, drainage easements, and administrative procedures, shall apply.

B. Criteria.

1. For streets included in the transportation element of the county's comprehensive plan that serve diverse areas of the region or county, no special agreement or acknowledgement is needed as a prerequisite to acceptance, provided:

a. The street is part of a transportation corridor that was formally adopted as a part of the county's comprehensive transportation plan prior to the local governing body's approval of the plat or plan for the development of the adjacent land.

b. The transportation corridor is a major thoroughfare planned primarily to move through traffic.

c. When fully developed the street must satisfy the department's functional classification criteria as a major collector or higher.

d. The street has a projected traffic volume of 8,000 vehicles per day or less for a period of 10 years following the date of the acceptance for maintenance by the department.

2. For all other streets, the local governing body's resolution requesting acceptance of the initial two lane section must include provisions that acknowledge:

a. The local governing body agrees that all costs incurred in the street's complete construction, including right-of-way, engineering, utility adjustment, etc., shall be provided from funds other than those derived from state revenue sources administered by VDOT, except as may be expressly authorized by the ~~department's Director of the Local Assistance Division~~ appropriate Central Office Division Administrator.

b. The local governing body agrees that it is their responsibility to ensure that the roadway is completed as needed to accommodate the traffic. However, the county also acknowledges that a determination that the street needs to be completed to its ultimate section will be made by the resident engineer or his designee once it is determined that the first two lanes will not sustain an acceptable level of service for the function classification of the roadway in accordance with the Highway Capacity Manual (24VAC30-91-160).

C. Procedures.

1. Plats or plans, or both, for the street's complete development, in accordance with all applicable provisions of these requirements, shall be submitted for approval.

2. The plats or plans shall also delineate the street's initial development as proposed pursuant to this section. In no case shall this design provide less than one-half of the roadway typical section required by the applicable requirements for the street's complete development.

3. Unless waived by the resident engineer, a capacity analysis shall be submitted to document that an acceptable level of service will be maintained for the intended duration of the initial phase of development. In determining an acceptable level of service, the beneficial effect of the proposed street on the overall transportation network will be considered. The resident engineer or his designee may waive this requirement for a traffic capacity analysis.

4. A determination will be made by VDOT in consultation with the locality whether the street can be approved for

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phased development and which criterion in subsection B of this section applies.

5. Upon the resident engineer's determination that the proposal is in compliance with the applicable provisions of this section, the plans may be approved accordingly.

6. Upon completion of the street's initial phase in accordance with approved plans, its compliance with all other applicable provisions of this section, and the inclusion of the appropriate language in the resolution, the street may be accepted for maintenance by the department as part of the secondary system of state highways.

Part II Specific Provisions

24VAC30-91-110. Design and agreement requirements.

A. General requirements. Most criteria addressing the design of new subdivision streets can be found in the Subdivision Street Design Guide (24VAC30-91-160). However, the following provisions are provided for guidance, particularly in regard to features that require agreements or formal acknowledgements of the governing body before VDOT's acceptance of the street or streets within a subdivision.

When an agreement is required between the local governing body and the department as a prerequisite to the acceptance of a subdivision street, nothing in these requirements shall preclude the local governing body from entering into separate agreements with other entities to fulfill its responsibilities. However, if the provisions are intended to ensure the safety of the public using the street, the department reserves the right to approve the involvement of the other party or parties.

B. Geometric requirements. Geometric requirements for new subdivision streets are established in the Subdivision Street Design Guide of the Road Design Manual (24VAC30-91-160). In certain circumstances the Subdivision Street Design Guide (24VAC30-91-160) allows reduced pavement widths for curb and gutter sections. Any such reduction must be specifically requested by the governing body in writing and be approved by the resident engineer. Sufficient off-street parking must be provided by the local governing body as indicated in the Subdivision Street Design Guide (24VAC30-91-160) to accommodate any request for reduced pavement widths. However, no special request from the local governing body shall be required in the event the department has approved a design standard for use throughout that county that includes street width reductions for a specific type of subdivision, such as a Neotraditional subdivision.

C. Turn lanes. Left or right turn lanes shall be provided at intersections when the department determines that projected turning movements warrant their installation. These facilities shall be designed in accordance with the Subdivision Street Design Guide (24VAC30-91-160) and, if necessary,

additional right-of-way shall be provided to accommodate these facilities.

D. Pavement structure.

1. Pavement design. The pavement structure for new subdivision streets shall be in accordance with the Pavement Design Guide (24VAC30-91-160), including any prescribed underdrains. Prior to construction of the pavement sub-base and finish courses, the resident engineer shall approve the proposed pavement design.

2. Special pavement surfaces. The resident engineer may approve special pavement surfaces, such as the use of stamped pavement or the use of paving blocks or bricks. However, if the pavement design is a type not addressed by the Pavement Design Guide (24VAC30-91-160) or otherwise not in general use by the department, an agreement shall be provided by the governing body that addresses the future maintenance of such pavement.

3. Pavement additions to existing streets. When an existing VDOT maintained roadway is to be widened to accommodate additional lanes or the addition of turn lanes, the necessary pavement design shall be obtained from the resident engineer and the entire surface of the roadway (old and new portions) shall be overlaid and re-striped as required by the resident engineer.

E. Parking.

1. Perpendicular and angle parking along subdivision streets is normally prohibited. However, perpendicular and angle parking along subdivision streets may be considered if the features along the street cause the street to readily appear to be a street rather than a travel way through a parking lot. In addition, additional pavement width may be necessary between the travel lanes and the parking spaces to allow a car to back from its normal parked position, orient itself for entering the travel lanes and stop without either encroaching into the travel lanes or having the driver's vision of oncoming traffic obscured by adjacent, parked vehicles.

Street designs that anticipate the restriction of on-street parking shall only be approved with the consent of the county official and the resident engineer.

2. Localities are encouraged to adopt local ordinances to appropriately address adequate off street parking in subdivisions. In the absence of local regulations that are deemed acceptable by the department, the following criteria shall apply for the design of subdivision streets:

a. A minimum of two off-street parking spaces per dwelling unit, exclusive of garage facilities associated with the unit, shall be provided in the proximity of the unit they are intended to serve. Additional off-street parking space shall be provided when the width of any residential curb and gutter roadway is proposed for

reduction as permitted in the Subdivision Street Design Guide (24VAC30-91-160). Except as may be associated with corner dwellings, the availability of on-street parking along other streets will not normally be considered as additional off-street parking.

b. If parking bays are provided, they shall be located off the street's right-of-way and designed to prevent vehicles from backing into the adjacent subdivision street.

c. Entrances to parking bays shall be separated by at least 50 feet and designed in accordance with the appropriate provisions of the standards or Land Use Permit ~~Manual~~ Regulations.

F. Cul-de-sacs and turnarounds. An adequate turnaround facility shall be provided at the end of each cul-de-sac or stub street to permit the safe and convenient maneuvering by service vehicles. Various configurations of turnarounds are illustrated in the Subdivision Street Design Guide (24VAC30-91-160); however, alternative configurations may be approved by the resident engineer. Additional right-of-way shall be provided as required by the design of the turnaround. Normally, any nontraveled way areas within the turnaround, such as an island, shall be included in the dedicated right-of-way of the facility.

For circular turnarounds, a well-defined, identifiable street segment, equal to the normal lot width along the intersected street that serves the cul-de-sac or 50 feet, whichever is greater, shall extend from the intersected street to the turning area.

G. Curb and gutter. For the purpose of these requirements, the use of curb and gutter is an acceptable roadway design alternative, rather than a requisite. However, when used, curb and gutter shall be designed in accordance with the Subdivision Street Design Guide (24VAC30-91-160) and only one curb and gutter design may be used along the length of a street.

1. Driveway entrance requirements. Without regard to the curb design used, the curb shall incorporate a driveway entrance apron, as illustrated in the Subdivision Street Design Guide (24VAC30-91-160), to provide a smooth transition from the gutter invert or roadway surface onto the driveway. However, exceptions may be granted by the resident engineer when roll top curb is used if requested by the local official.

2. Curb ramps. All streets that incorporate accessible routes for pedestrian use shall, without regard to the curb design used, include curb ramps at intersections for use by persons with disabilities and shall incorporate other applicable provisions of the Americans with Disabilities Act.

H. Private entrances. All private entrances shall be designed and constructed in accordance with the Subdivision Street Design Guide (24VAC30-91-160).

I. Pedestrian, bicycle, and shared use path facilities. The Commonwealth Transportation Board's "Policy for Integrating Bicycle and Pedestrian Accommodations" emphasizes accommodating pedestrian and bicycle traffic as an essential part of any VDOT financed transportation project. While separate pedestrian and bicycle facilities are not mandated for local subdivision streets, unless required by local ordinance, any street proposed for VDOT acceptance should accommodate the anticipated pedestrian and bicycle traffic. When separate pedestrian and bicycle facilities are deemed appropriate, they should be included in the initial construction of the street, prior to VDOT acceptance. These facilities are eligible for VDOT acceptance based on the criteria of this section.

1. Compliant facilities. Pedestrian and bicycle facilities, including shared use paths as defined under § 46.2-100 of the Code of Virginia, shall be accepted as part of subdivision streets, unless otherwise requested by the governing body, provided they are located fully within the dedicated right-of-way of the street and they are constructed in accordance with applicable criteria and standards of the department.

a. Sidewalk criteria. Sidewalks shall be constructed in accordance with the Subdivision Street Design Guide (24VAC30-91-160). However, sidewalks that meander vertically in comparison to the grade of the roadway may be considered noncompliant sidewalks.

b. Bicycle facility criteria. Bicycle facilities contiguous with the street shall be in accordance with the department's design and construction criteria set forth in the Road Design Manual (24VAC30-91-160).

c. Shared use path criteria. Shared use paths shall be constructed in accordance with the Road Design Manual (24VAC30-91-160) and closely follow the vertical alignment of the roadway without meandering on and off the right-of-way.

2. Noncompliant sidewalk, bicycle, and shared use paths. Noncompliant sidewalk, bicycle and shared use paths that fail to meet requirements of the department's standards for construction, alignment, or placement within the dedicated right of the street shall be deemed to be noncompliant and not qualify for maintenance. However, such facilities may co-exist within the dedicated right-of-way of the street under a land use permit issued by the resident engineer to the local governing body responsible for having established the facility through its subdivision process.

Such permits will clearly specify the responsibility for maintenance of the facility and related activities to the extent the facility occupies the street's right-of-way. The permit applicant should be a county, incorporated town, or other entity that has perpetual maintenance capability. Noncompliant sidewalks and shared use paths may be

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constructed of bituminous concrete, hydraulic concrete, gravel, or other stabilizer convenient to the applicant.

J. Bridge, drainage, and other grade separation structures. Bridges, drainage, and other grade separation structures shall be designed and constructed in accordance with all applicable department criteria and standards. The resident engineer may require special review of the plans and construction inspection.

The department will accept grade separation structures as part of new subdivision streets provided the structure is a drainage structure or is intended to separate the movement of registered motor vehicles. In addition, the department will accept grade separation structures intended to separate pedestrians or bicyclists or any combination thereof from traffic using the roadway, provided:

1. The structure is available for unrestricted public use;
2. The structure is accessible to pedestrian facilities, if any, situated along the street; and
3. The projected traffic volume of the street is not less than 4000 vpd or, if the structure otherwise serves as part of the principle pedestrian access to a school and a peak hour traffic volume of 450 vph is projected.

In all other instances, the grade separation structure shall be deemed to be a county controlled grade separation structure within the right-of-way of the street, in which case the street will only be accepted as part of the secondary system of state highways maintained by the department after the local governing body and the department have executed an agreement acceptable to the department that (i) acknowledges the department has no responsibility or liability due to the presence of the structure and (ii) assures the costs of inspection, maintenance, and future improvements to the structure are provided from sources other than those administered by the department.

In all cases, whether the structure is accepted as an integral part of the roadway for maintenance by the department or it remains a county controlled structure, the responsibility for lighting, safety, and security of those using such facilities shall remain a responsibility of local government.

K. Dams. The department will only consider accepting subdivision streets for maintenance that occupy dams when all of the following provisions are satisfied. For the purpose of this section, a roadway will be considered to occupy a dam if any part of the fill for the roadway and the fill for the dam overlap or if the area between the two embankments is filled in so that the downstream face of the dam is obscured or if a closed drainage facility from a dam extends under a roadway fill.

1. Agreements with the governing body. Except as exempt under subdivision 6 of this subsection, the governing body acknowledges by formal agreement the department's

liability is limited to the maintenance of the roadway and that the department has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of an owner, other than VDOT, as established by § 33.1-176 of the Code of Virginia.

2. Design review. An engineer, licensed to practice in the Commonwealth of Virginia, shall certify that the hydraulic and structural design of any dam, as described below, is in accordance with current national and state engineering practice and that all pertinent provisions of the Subdivision Street Design Guide (24VAC30-91-160) have been considered. Prior to approval of the roadway construction plans, the hydraulic and structural design of a proposed dam shall be reviewed by and meet the department's satisfaction if:

- a. A roadway is considered to occupy a dam; or
- b. A roadway is located below but sufficiently close to the dam that a catastrophic breach could endanger the roadway or the safety of those using the roadway.

3. Right-of-way requirements. The right-of-way of roads considered to occupy dams shall be recorded either as an easement for public road purposes or as a dedication specifically to the governing body. Right-of-way dedicated in the name of the Commonwealth or any of its agencies is not acceptable if it includes a dam and roads through such right-of-way will not be accepted as a part of the secondary system of state highways maintained by the department.

4. Supplemental, alternative access. To be considered for VDOT maintenance, roadways that occupy a dam must be supplemented by an appropriate alternative roadway facility for public ingress or egress, having suitable provisions that ensure perpetual maintenance.

5. Permits. All applicable federal and state permits associated with dams shall be secured and filed with the county prior to VDOT's acceptance of any street that occupies a dam.

6. Dams exempt from agreements. The acceptance of roadways that occupy dams shall be exempt from the requirements for an agreement with the governing body, as required by subdivision 1 of this subsection, if all of the following is satisfied:

- a. The dam is used to create a stormwater detention or retention facility;
- b. The maximum depth of the water retained by the impoundment at its 100-year storm flood elevation is not greater than four feet; and
- c. The surface area of the impoundment at full flood is not greater than two acres and is beyond the right-of-way dedicated to public use.

L. Roadway drainage.

1. Policy and procedures. All drainage facilities shall be designed in accordance with the department's Drainage Manual (24VAC30-91-160) and supplemental directives. All drainage computations supporting a proposed drainage design shall be submitted to the department for review as part of the documents necessary for the approval of a construction plan.

2. Stormwater management. Whereas the department considers matters regarding stormwater management associated with the construction of new subdivision streets to be under the authority of the local governing body, decisions regarding stormwater management in the construction of subdivision streets are deferred to the locality. However, stormwater management, including the construction of detention or retention facilities, or both, is recognized as an available design alternative. Where the developer is required by regulations promulgated by an agency or governmental subdivision other than the department or the developer chooses to use stormwater management facilities in the design of a subdivision, the governing body shall, by formal agreement, and as a prerequisite for the transfer of jurisdiction over the street to the department, acknowledge that the department is not responsible for the operation, maintenance, or liability of the stormwater management facility or facilities associated with the subdivision. However, in the event the governing body has executed a comprehensive, countywide agreement with the department addressing these matters, a specific agreement addressing stormwater management controls in the subdivision will not be required as a condition for street acceptance.

Stormwater management controls for VDOT projects are designed in accordance with the VDOT Erosion and Sediment Control and Stormwater Management Program Specifications Manual (24VAC30-91-160), the Virginia Erosion and Sediment Control Regulations, 4VAC50-30, and the Virginia Stormwater Management Regulations, 4VAC3-20. While these controls may be necessary whenever a street maintained by VDOT is widened or relocated, the department does not require them in the development of new subdivision streets, because such activity is regulated by the local governments. However, developers and counties may find these controls useful in managing land development activity.

Devices and treatments intended to mitigate the impact of stormwater shall be placed off of the right-of-way and shall be designed to prevent the backup of water against the roadbed.

Where development activity results in increased runoff to the extent that adjustment of an outfall facility is required, such adjustment shall be at the developer's expense and be contained within an appropriate easement.

3. Drainage easements.

a. An acceptable easement shall be provided from all drainage outfalls to a natural watercourse, as opposed to a swale. (See 24VAC30-91-10 for definitions.)

b. The department normally accepts and maintains only that portion of a drainage system that falls within the limits of the dedicated right-of-way for a street. The department's responsibility to enter drainage easements outside of the dedicated right-of-way shall be limited to undertaking corrective measures to alleviate problems that may adversely affect the safe operation or integrity of the roadway.

c. In the event drainage to a natural watercourse is not accomplished or is interrupted, an acceptable agreement from the governing body may be considered as an alternative to providing an easement to a natural watercourse, provided the agreement acknowledges that the department is neither responsible nor liable for drainage from the roadway.

M. Other design considerations.

1. Guardrail. Guardrail shall be used when required by the resident engineer consistent with the Road Design Manual (24VAC30-91-160). For placement considerations, see the Subdivision Street Design Guide (24VAC30-91-160).

2. Landscaping and erosion control. All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with vegetation compatible with the surrounding area. Where there is visual evidence of erosion or siltation, acceptance of the street as part of the secondary system of state highways maintained by the department will be postponed until appropriate protective measures, in accordance with VDOT's construction practices, are taken. Except as otherwise approved by the resident engineer, planting of trees or shrubs on the right-of-way shall be in accordance with the Subdivision Street Design Guide (24VAC30-91-160).

3. Lighting. Roadway, security, or pedestrian lighting, when required by the governing body or desired by the developer, shall be installed in accordance with the Subdivision Street Design Guide (24VAC30-91-160). However, VDOT shall not be responsible for the maintenance or replacement of lighting fixtures or the provision of power for lighting.

4. Railroad crossings.

a. Short-arm gates with flashing signals, flashing signals alone, or other protective devices as deemed appropriate by the department shall be provided at any at-grade crossing of an active railroad by a subdivision street.

b. Crossings of railroad right-of-way are subject to the requirements of the railroad. Subdivision streets to be accepted by the department for maintenance as part of

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the secondary system of state highways that cross railroad right-of-way will only be considered if the protective measures outlined under this section have been fully installed and an agreement between the railroad, the developer and the local governing body has been executed. Prior to execution, such agreements shall be presented to the department for consideration in consultation with the Department of Rail and Public Transportation.

5. Utilities. Local governments, the development community, and the utility community are encouraged to coordinate and consolidate their interests as part of the initial development plan.

a. Underground utilities. The department allows the placement of underground utilities within the dedicated right-of-way of streets, but normally restricts placement to areas outside of the travel lanes and desirably beyond pavement areas. However, if the governing body has established adequate requirements for the design, location, and construction of underground utilities within the right-of-way of subdivision streets, including provisions that ensure that adequate testing and inspection is performed to minimize future settlement, those requirements shall become the department's requirements and govern unless those requirements conflict with a requirement of the department.

When location of the utilities outside of the pavement area is not practical and is endorsed by the local government through its requirements, such installations:

(1) Are acceptable within the shoulders along the street or within the parking area adjacent to curb and gutter roadways.

(2) May be acceptable beneath the travel lanes of the street when provisions are made to ensure adequate inspection and compaction tests and:

(a) Longitudinal installations and manholes are located outside of the normal travel lanes, or

(b) Longitudinal installations and manholes are placed in the center of an undivided roadway out of the wheel path.

However, manholes shall not be placed in sidewalk or shared use path facilities within five feet of curb ramps or within driveway entrances.

b. Open-cutting of hard-surfaced roadways. The department usually prohibits the open-cutting of hard-surfaced roads except in extenuating circumstances. Therefore, all underground utilities within the right-of-way, as determined necessary by good engineering practice to serve the complete development of adjacent properties, shall be installed during the street's initial construction and prior to the application of its final pavement surface course. This shall include extensions of

all necessary cross-street connections or service lines to an appropriate location beyond the pavement and preferably the right-of-way line.

In the event it is necessary to open the street pavement to work on utilities after the surface has been placed, additional compaction tests and paving as necessary to restore the integrity and appearance of the roadway may be required at the discretion of the resident engineer.

c. Cross-street conduits. To facilitate the placement of future underground utilities, cross-street conduits are encouraged, with placement of such conduits occurring on each street at intersections and approximately every 1,000 feet along the length of a street.

d. Aboveground utilities. All aboveground utilities shall be installed behind the sidewalk or as close as possible to the limits of the street's right-of-way but shall not encroach on the sidewalk, the shared use path, or any clear zone.

To assure the unencumbered dedication of the right-of-way for subdivision street additions, easements or other interests within the platted right-of-way shall be quitclaimed of any prior rights therein. In exchange, a permit may be issued by the department for a utility to occupy the area involved. This permit will be processed by the resident engineer upon acceptance of the street into the secondary system of state highways maintained by the department. No inspection fee is required for permits so issued. However, the approval of the permit shall be contingent upon the utility's compliance with applicable provisions of the Land Use Permit Manual Regulations.

24VAC30-91-120. Right-of-way width, spine strips, and encroachments.

A. Right-of-way width. A clear and unencumbered right-of-way shall be dedicated to public use for any subdivision street proposed for addition to the secondary system of state highways maintained by the department. However, in certain, rare extenuating circumstances involving a party beyond the influence of the developer, an easement for transportation purposes may be approved by the resident engineer in lieu of dedicated right-of-way. In all other cases, any easement that might interfere with the public's unencumbered use of the street shall be quitclaimed in exchange for a land use permit, as outlined in 24VAC30-91-110 M 5 (Design and agreement requirements—Utilities).

The width of right-of-way shall be as indicated in the Subdivision Street Design Guide 24VAC30-91-160) and shall be sufficient to include all essential elements of the roadway intended to be maintained by the department, including pedestrian, bicycle, or shared use path facilities and clear zone. However, supplemental easements may be used to accommodate sight distance requirements and slopes for cuts

and fills. The right-of-way requirements are defined in the Subdivision Street Design Guide (24VAC30-91-160).

When an existing state maintained road is widened, the additional right-of-way should be dedicated as follows:

1. If the existing right-of-way consists of a prescriptive easement, to the degree that the developer controls the land, the right-of-way shall be dedicated to public use from the centerline of the alignment.
2. If the existing right-of-way is dedicated to public use, the additional right-of-way shall be dedicated to public use.
3. If the existing right-of-way is titled in the name of the department or the Commonwealth, the additional right-of-way shall be deeded to the department or to the Commonwealth, consistent with the title of the existing right-of-way.

B. "Spite strips." Plans that include a reserved or "spite" strip that prohibits otherwise lawful vehicular access to a street from the adjacent properties, whether within or outside the subdivision, will not be approved.

C. Encroachments within the right-of-way. Recording of a plat causes the fee title interest of areas dedicated to public use to transfer to the local governing body. Therefore, objects installed within the right-of-way for purposes other than transportation may be considered an unlawful encroachment in the right-of-way and prevent the right-of-way from being considered clear and unencumbered.

Posts, walls, signs, or similar ornamental devices that do not interfere with roadway capacity or encroach into a clear zone or interfere with prescribed sight distance requirements may be permitted within the right-of-way. However, specific authorization by the resident engineer or as authorized under the Land Use Permit ~~Manual~~ Regulations is a requisite for these devices or any other encroachment located within the right-of-way. For the purposes of this subsection, mailboxes installed on breakaway posts may occupy the right-of-way without permit. Otherwise encroachments that do not fall within the safe clear zone may be allowed within the right-of-way pursuant to a land use permit issued by the resident engineer or other designee.

24VAC30-91-160. Listing of documents (publications) incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from the department may be ~~obtained from the department's division and representative indicated~~ submitted to VDOT; however, department documents may be available over the Internet at www.Virginiadot.org.

1. Drainage Manual, effective April 2002.

~~Location and Design Division (VDOT) VDOT~~

~~Location and Design Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

2. Land Use Permit ~~Manual, 24VAC30-150, effective November 15, 1983~~ Regulations, 24VAC30-151, effective March 17, 2010.

~~Local Assistance Division (VDOT) VDOT~~
~~Director of the Local Assistance Division~~
1401 E. Broad Street
Richmond, Virginia 23219

3. Pavement Design Guide for Subdivision and Secondary Roads in Virginia, effective August 1, 2000.

~~Materials Division (VDOT) VDOT~~
~~State Materials Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

4. Road and Bridge Specifications, effective 2002.

~~Construction Division (VDOT) VDOT~~
~~State Construction Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

5. Road Design Manual, effective January 1, 2005.

~~Location and Design Division (VDOT) VDOT~~
~~Location and Design Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

6. Subdivision Street Design Guide (Appendix B: Road Design Manual, effective January 1, 2005)

~~Location and Design Division (VDOT) VDOT~~
~~Location and Design Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

7. Road and Bridge Standards, effective February 1, 2001.

~~Location and Design Division (VDOT) VDOT~~
~~Location and Design Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

8. Standard Specifications for Highway Bridges, effective 1996.

American Association of State Highway and Transportation Officials
North Capital Street, Suite 225
Washington, DC 20001

VDOT Modifications to document above

~~Structure and Bridge Division (VDOT) VDOT~~
~~Structure and Bridge Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

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9. Virginia Erosion and Sediment Control Handbook, effective 1992.

Division of Soil and Water Conservation with The Virginia Erosion and Sediment Control Law and Regulations

Division of Soil and Water Conservation
Governor Street, Suite 206
Richmond, Virginia 23219

10. Highway Capacity Manual, effective 2000.

Transportation Research Board
Keck Center of the National Academies
Transportation Research Board
500 Fifth Street, NW
Washington, DC 20001

Attn: TRB Publications Sales & Affiliate Services

11. VDOT Erosion and Sediment Control and Stormwater Management Program Specifications Manual (effective March 1, 2004).

~~Location and Design Division (VDOT) VDOT
Location and Design Engineer~~
1401 E. Broad Street
Richmond, Virginia 23219

12. Policy for Integrating Bicycle and Pedestrian Accommodations—Commonwealth Transportation Board (effective March 18, 2004.) Note: This policy reference is included in the regulation only for informational purposes and is not considered a regulatory provision. Applicable elements of this policy are stated in the regulation itself.

V.A.R. Doc. No. R11-2158; Filed March 22, 2011, 9:42 a.m.

Final Regulation

Title of Regulation: 24VAC30-92. **Secondary Street Acceptance Requirements (amending 24VAC30-92-10, 24VAC30-92-60, 24VAC30-92-70, 24VAC30-92-120, 24VAC30-92-130, 24VAC30-92-150).**

Statutory Authority: § 33.1-70.3 of the Code of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Robert Hofrichter, Assistant Division Administrator, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-0780, FAX (804) 786-0628, or email robert.hofrichter@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151); (ii) replace a reference to regulations concerning spacing standards for minor arterials and collector roadways with a reference to the Access Management Regulations: Minor Arterials, Collectors, and Local Streets (24VAC30-73), now that the chapter is in

effect; (iii) remove and replace division names, particularly in the documents incorporated by reference section, to accommodate changes in division names and transfer of responsibilities within VDOT; and (iv) correct minor typographical errors.

24VAC30-92-10. Definitions.

The following words and terms when used in these regulations shall have the following meanings unless the context clearly indicates otherwise:

"Abandonment" in all its forms means the legislative action reserved for and granted to the local governing body to extinguish the public's right to a roadway under the jurisdiction of the Virginia Department of Transportation pursuant to §§ 33.1-151 and 33.1-155 of the Code of Virginia.

"Accessible route" means a public or private continuous unobstructed, stable, firm and slip-resistant path connecting all accessible elements of a facility (which may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts) that can be approached, entered and used by persons with disabilities. An accessible route shall, to the maximum extent feasible, coincide with the route for the general public.

"ADT" means average daily traffic count (see "projected traffic").

"Alley" means a narrow roadway segment used by motor vehicles for access to the rear side of commercial or residential land use, or access to auxiliary land uses and that is located within a dedicated public way or public easement.

"Clear zone" means the total border area of a roadway including, if any, parking lanes or planting strips that is sufficiently wide for an errant vehicle to avoid a serious accident. (See the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-150) for details.)

"Commissioner" means the chief executive officer of the Virginia Department of Transportation or his designee.

"Complete development (land)" means the utilization of the available areas in a manner as to realize its highest density for the best potential use based on zoning, pending rezoning, the adopted comprehensive plan of the governing body, or the customary use of similar parcels of land.

"Complete development (streets)" means the development of a street in full compliance with all applicable provisions of these regulations to the necessary standards of design, construction, and public benefit requirements for the effective and efficient accommodation of all modes of transportation generated by the complete development of the land, both internal and external to the development.

"Conceptual sketch" means a drawing of the proposed development showing the location of existing and proposed

land uses, any existing and proposed transportation facilities, and any additional information required so that the reviewer can determine the appropriate functional classification of the proposed street or streets and verify the calculation of the connectivity index, if appropriate.

"Connectivity index" means the number of street segments divided by the number of intersections. Only street segments and intersections within a network addition as well as any street segment or intersection outside of the network addition connected to street segments within the network addition, or that has been connected or will be connected pursuant to 24VAC30-92-60 C 7 to the network addition through the extension of an existing stub out shall be used to calculate a network addition's connectivity index.

"Cul-de-sac" means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

"Dam" means an embankment or structure intended or used to impound, retain, or store water, either as a permanent pond or as a temporary storage facility.

"Department" or "VDOT" means the Virginia Department of Transportation.

"Design speed" means a speed selected for purposes of design and correlation of those features of a street such as curvature, super elevation, and sight distance, upon which the safe operation of vehicles is dependent.

"Developer" means an individual, corporation, local government, or registered partnership engaged in the subdivision, improvement, or renovation of land.

~~"Director of the Maintenance Division" means the department employee, his successor or his designee, responsible for overseeing all programs administered by the Maintenance Division, including these requirements and the final acceptance of streets as part of the secondary system of state highways maintained by the department.~~

"Discontinuance," in all its forms, means the legislative act of the Commonwealth Transportation Board, pursuant to § 33.1-150 of the Code of Virginia, that determines that a road no longer serves public convenience warranting its maintenance with funds at the disposal of the department.

"District administrator" means the department employee assigned the overall supervision of the departmental operations in one of the Commonwealth's construction districts.

"District administrator's designee" means the department employee or employees designated by the district administrator to oversee the implementation of this regulation.

"Drainage Manual" means the department's Drainage Manual (see 24VAC30-92-150).

" Dwelling unit" means a structure or part of a structure containing sleeping, kitchen, and bathroom facilities that is suitable for occupancy as a home or residence by one or more persons.

"Easement" means a grant of a right to use property of an owner for specific or limited purpose.

"External street segment" means a street segment within a network addition that connects with the existing public street network.

"FAR" means floor area ratio, which is the ratio of the total floor area of a building or buildings on a parcel to the size of the parcel where the building or buildings are located.

"Functional classification" means the assigned classification of a roadway based on the roadway's intended purpose of providing priority to through traffic movement and access to adjoining property as determined by the department, based on the federal system of classifying groups of roadways according to the character of service they are intended to provide.

"Governing body" means the board of supervisors of the county, but may also mean the local governing body of a town or city, if appropriate, in the application of these requirements.

"Intersection" means a juncture of three or more street segments, or the terminus of a street segment, such as a cul-de-sac or other dead end. The terminus of a stub out shall not constitute an intersection for the purposes of this chapter. The juncture of a street with only a stub out, and the juncture of a street with only a connection to the end of an existing stub out, shall not constitute an intersection for the purposes of this chapter, unless such stub out is the only facility providing service to one or more lots within the development.

"Level of service" means a qualitative measure describing operational conditions within a vehicular traffic stream, and their perception by motorists and passengers. For the purposes of these requirements, the applicable provisions of the Highway Capacity Manual (see 24VAC30-92-150) shall serve as the basis for determining "levels of service."

"Level terrain" means that condition where highway sight distances, as governed by both horizontal and vertical restrictions, are generally long or could be made so without construction difficulty or major expense.

"Locally controlled grade separation structure" means a grade separation structure that does not qualify for maintenance by the department but was established within the right-of-way of a street intended for state maintenance.

"Local official" means the representative of the governing body appointed to serve as its agent in matters relating to subdivisions and land development.

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"Multiuse trail" means a facility designed and constructed for the purpose of providing bicycle and pedestrian transportation, located within a dedicated public way and is anticipated to be maintained by an entity other than the department.

"Municipal separate storm sewer system" or "MS4" means all separate storm sewers that are designated under 4VAC50-60-380 A 1 as municipal separate storm sewer systems located in census urban areas.

"Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means a management program covering the duration of a permit for a municipal separate storm sewer system that includes a comprehensive planning process that involves public participation and intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act and corresponding regulations and the Virginia Stormwater Management Act and attendant regulations, using management practices, control techniques, and system, design and engineering methods, and such other provisions that are appropriate.

"Network addition" means a group of interconnected street segments and intersections shown in a plan of development that are connected to the state highway system.

"Parking bay" means an off-street area for parking two or more vehicles that provides access to a public street.

"Parking lane" means an area, generally seven or eight feet in width, adjacent to and parallel with the travel lane of a roadway that is used for parking vehicles.

"Pavement Design Guide" means the Pavement Design Guide for Subdivision and Secondary Roads in Virginia (see 24VAC30-92-150).

"Permit Manual Regulations" means the department's Land Use Permit Manual Regulations (see 24VAC30-92-150).

"Phased development (streets)" means the method outlined in 24VAC30-92-80 (phased development of streets) whereby the acceptance of certain streets into the secondary system of state highways may be considered before being completely developed in accordance with all applicable requirements (e.g., two lanes of a four-lane facility are considered for acceptance in advance of lanes three and four being finished).

"Plan of development" means any site plat, subdivision plan, preliminary subdivision plat, conceptual subdivision sketch, or other engineered or surveyed drawings depicting proposed development of land and street layout, including plans included with rezoning proposals.

"Plans" means the standard drawings, including profile and roadway typical section, that show the location, character,

dimensions, and details for the proposed construction of the street.

"Planting strip" means a section of land between the curb face and the pedestrian accommodation or shared use path.

"Plat" means the schematic representation of the land divided or to be divided.

"Projected traffic" means the number of vehicles, normally expressed in average daily traffic (ADT), forecast to travel over the segment of the street involved.

"Public street" means a street dedicated to public use and available to the public's unrestricted use without regard to the jurisdictional authority responsible for its operation and maintenance.

"Requirements" means the design, construction, public benefit, and related administrative considerations herein prescribed for the acceptance of a street for maintenance by the department as part of the secondary system of state highways.

"Right-of-way" means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street designated to become part of the secondary system of state highways.

"Roadway" means the portion of the road or street within the limits of construction and all structures, ditches, channels, etc., necessary for the correct drainage thereof.

"Secondary system of state highways" means those public roads, streets, bridges, etc., established by a local governing body pursuant to § 33.1-229 of the Code of Virginia and subsequently accepted by the department for supervision and maintenance under the provisions of Articles 6 (§ 33.1-67 et seq.) and 11 (§ 33.1-150 et seq.) of Chapter 1 of Title 33.1 of the Code of Virginia.

"Shared use path" means a facility that is designed and constructed according to the Road Design Manual (see 24VAC30-92-150), for the purpose of providing bicycle and pedestrian transportation.

"Smoothed urbanized area boundary" means the modified area boundary of a census urbanized area as determined by the latest U.S. decennial census and modified by appropriate state, regional, and local government officials, and approved by the Federal Highway Administration.

"Smoothed urban cluster boundary" means the modified area boundary of a census urban cluster as determined by the latest U.S. decennial census and modified by appropriate state, regional and local government officials, and approved by the Federal Highway Administration.

"Specifications" means the department's Road and Bridge Specifications (see 24VAC30-92-150), including related supplemental specifications and special provisions.

"Standards" means the applicable drawings and related criteria contained in the department's Road and Bridge Standards (see 24VAC30-92-150).

"Street" means any roadway that is created as part of a plan of development, other subdivision of land, or is constructed by or at the direction of the local governing body and is a public way for purposes of vehicular traffic, including the entire area within the right-of-way.

"Street segment" means (i) a section of roadway or alley that is between two intersections or (ii) a stub out or connection to the end of an existing stub out.

"Stub out" means a transportation facility (i) whose right-of-way terminates at a parcel abutting the development, (ii) that consists of a short segment that is intended to serve current and future development by providing continuity and connectivity of the public street network, (iii) that based on the spacing between the stub out and other streets or stub outs, and the current terrain there is a reasonable expectation that connection with a future street is possible, and (iv) that is constructed to the property line.

"Subdivision" means the division of a lot, tract, or parcel into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Any resubdivision of a previously subdivided tract or parcel of land shall also be interpreted as a "subdivision." The division of a lot or parcel permitted by § 15.2-2244 of the Code of Virginia will not be considered a "subdivision" under this definition, provided no new road or street is thereby established. However, any further division of such parcels shall be considered a "subdivision."

"Subdivision Street Design Guide" means Appendix B of the Road Design Manual (see 24VAC30-92-150).

"Swale" means a broad depression within which stormwater may drain during inclement weather, but that does not have a defined bed or banks.

"Traveled way" means the portion of the secondary street designated for the movement of vehicles, exclusive of shoulders, parking areas, turn lanes, etc.

"Tree well" means an opening on a sidewalk, generally abutting the curb, where a tree may be planted.

"VPD" means vehicles per day.

"VPH" means vehicles per hour.

"Watercourse" means a defined channel with bed and banks within which water flows, either continuously or periodically.

24VAC30-92-60. Public benefit requirements.

A. Public benefit. A street or network addition may only be accepted by the department for maintenance as part of the secondary system of state highways if it provides sufficient public benefit to justify perpetual public maintenance as

defined by this chapter. A street shall be considered to provide sufficient public benefit if it meets or exceeds the public service, pedestrian accommodation, and connectivity requirements of the applicable area type of this chapter.

B. Public service requirements. In the event the governing body requests the addition of a street or network addition before it meets these public service provisions, the district administrator will review each request on an individual case basis and determine if the acceptance of a street prior to normal service requirements is justified, provided the street or network addition meets all other applicable requirements including the connectivity requirements of this chapter. At the request of the local governing body, subject to approval by the district administrator, the public service requirements may be reduced for individual streets serving state or local economic development projects.

1. Individual streets. For the purpose of these requirements without regard to applicable area type, public service may include, but is not necessarily limited to, streets meeting one or more of the following situations:

a. Serves three or more occupied units with a unit being a single-family residence, owner-occupied apartment, owner-occupied residence in a qualifying manufactured home park, a stand-alone business, or single business entity occupying an individual building, or other similar facility. Also, streets serving manufactured home parks may only be considered when the land occupied by the manufactured home is in fee simple ownership by the residents of such manufactured home.

b. Constitutes a connecting segment between other streets that qualify from the point of public service.

c. Such street is a stub out.

d. Serves as access to schools, churches, public sanitary landfills, transfer stations, public recreational facilities, or similar facilities open to public use.

e. Serves at least 100 vehicles per day generated by an office building, industrial site, or other similar nonresidential land use in advance of the occupancy of three or more such units of varied proprietorship. Any addition under this provision shall be limited to the segment of a street that serves this minimum projected traffic and has been developed in compliance with these requirements.

f. Constitutes a part of the network of streets envisioned in the transportation plan or element of a locality's comprehensive plan that, at the time of acceptance, serves an active traffic volume of at least 100 vehicles per day.

2. Multifamily, townhouse, and retail shopping complexes. A through street that serves a multifamily building may be considered for maintenance as part of the secondary system

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of state highways if it is deemed by the department to provide a public service and provided it is well defined and the district administrator's designee determines that it is not a travel way through a parking lot.

Entrance streets and the internal traffic circulation systems of retail shopping complexes qualify only if more than three property owners are served and the street is well defined and separated from the parking areas.

3. Network additions. A network addition shall be considered to provide service if each street within the addition meets at least one of the criteria in subdivision 1 of this subsection.

4. Special exceptions. There may be other sets of circumstances that could constitute public service. Consequently, any request for clarification regarding unclear situations should be made in writing to the district administrator's designee.

C. Connectivity requirements. All street segments in a development as shown in a plan of development shall be considered for acceptance into the secondary system of state highways as one or multiple network additions. However, streets with a functional classification of collector and above may be eligible for acceptance as individual streets.

For the purposes of this subsection, connection shall mean a street connection to adjacent property or a stub out that will allow for future street connection to adjacent property.

If a stub out or stub outs maintained by the department adjoin the property of a development with a network addition or individual street proposed for acceptance into the secondary system of state highways, such network addition or individual street must connect to such stub out or stub outs to be eligible for acceptance into the secondary system of state highways. Local street stub outs generally should not exceed 500 feet in length. The applicant shall post a sign in accordance with the department's standards that indicates that such stub out is a site for a future roadway connection.

Nothing in this chapter shall be construed as to prohibit a stub out from providing service to lots within a development.

The connectivity requirements of this chapter shall not apply to the following: a frontage road or reverse frontage road as defined in the Access Management Regulations: Principal Arterials (see ~~24VAC30-72~~ 24VAC30-92-150), streets petitioned for acceptance into the secondary system of state highways through the Rural Addition Program pursuant to §§ 33.1-72.1 and 33.1-72.2 of the Code of Virginia, streets petitioned for acceptance into the secondary system of state highways through the Commonwealth Transportation Board's Rural Addition Policy provided such streets were constructed prior to March 9, 2009, or streets constructed or improved pursuant to §§ 33.1-221 and 33.1-223 of the Code of Virginia.

1. Compact standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the compact design standards pursuant to this chapter, the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC30-92-150);

b. The network addition provides sufficient connections in multiple directions and to multiple properties, if applicable, to local and higher order roadways to provide an overall connectivity index of 1.6 or higher. All network additions shall have a minimum of two connections; and

c. The block layout and other features of the development are designed in such a fashion as to provide reasonably direct pedestrian movement throughout the development and to adjoining property.

2. Suburban standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the suburban design standards pursuant to this chapter, the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC30-92-150);

b. The network addition provides sufficient connections in multiple directions and to multiple properties, if applicable, to local and higher order roadways to provide an overall connectivity index of 1.4 or higher. All network additions shall have a minimum of two connections; and

c. The block layout and other features of the development are designed in such a fashion as to provide reasonably direct pedestrian movement throughout the development and to adjoining property.

3. Rural standard. The streets within a network addition may be accepted into the secondary system of state highways if the network addition meets the following requirements:

a. The streets are designed and constructed in compliance with the rural design standards pursuant to this chapter, the Road Design Manual, and the Subdivision Street Design Guide (see 24VAC30-92-150); and

b. The network addition provides multiple connections to adjacent properties or streets in varying directions.

4. Individual street standard. Streets that are not part of a network addition shall be accepted into the secondary system of state highways upon petition by the local governing body as long as they meet the requirements of

the applicable design standard and both termini of the street are intersections with a roadway or roadways that are part of the existing publicly maintained highway network, subject to the connectivity exceptions of subdivision 5 of this subsection. Streets considered for individual acceptance should be (i) streets that provide a connection between two existing publicly maintained streets, (ii) streets with a functional classification as collector or higher, (iii) a frontage road or reverse frontage road pursuant to VDOT's Access Management Regulations: Principal Arterials (see ~~24VAC30-72~~ 24VAC30-92-150), (iv) streets petitioned for acceptance into the secondary system of state highways through the Rural Addition Program pursuant to §§ 33.1-72.1 and 33.1-72.2 of the Code of Virginia provided such street was constructed prior to March 9, 2009, (v) streets petitioned for acceptance into the secondary system of state highways through the Commonwealth Transportation Board's Rural Addition Policy provided such street was constructed prior to March 9, 2009, or (vi) streets constructed or improved pursuant to §§ 33.1-221 and 33.1-223 of the Code of Virginia.

5. Connectivity exceptions.

a. The connectivity index requirement for a network addition shall be reduced where a portion of the perimeter features one or more of the following constraints: (i) railroad tracks; (ii) limited access highway; (iii) an existing navigable river or a standing body of water with a depth greater than four feet under normal conditions; (iv) terrain grades in excess of 20%; and (v) government-owned property with restrictions upon development such as military installations, parks in existence prior to the submission of the development proposal for the network addition, and land under conservation easements accepted by the Virginia Outdoors Foundation.

The connectivity index shall be reduced based on the percentage of the perimeter that features one or more constraints. In compact area types, the connectivity index requirement shall be equal to 1.6 minus 0.6 times the ratio of the length of the perimeter that features one or more constraints to the total length of the perimeter. In suburban area types, the connectivity index requirement shall be equal to 1.4 minus 0.4 times the ratio of the length of the perimeter that features one or more constraints to the total length of the perimeter.

b. The connectivity index requirement for a network addition may be reduced by the district administrator. The developer shall submit any other request for connectivity exceptions to the district administrator's designee with a copy to the local official. The district administrator's designee shall respond to requests for connectivity exceptions within 45 calendar days of

receipt of a request. For projects where a scoping meeting pursuant to the Traffic Impact Analysis regulations (24VAC30-155) will be held, requests for exceptions and supporting data should be presented and discussed. The district administrator's designee may modify the connectivity index requirements for one or more of the following criteria:

(1) If the locality's comprehensive plan designates adjoining parcels to the proposed development for a land use that is determined by the local official to be incompatible with the land use of the proposed development. If the connectivity index requirement is modified due to incompatible land use, such network additions shall provide stub out or stub outs, as determined by the district administrator's designee based on the size of the development, to allow for future connectivity in the event that the comprehensive plan changes the designation of adjacent parcels to land use that is not incompatible. In no instance shall any retail, office, or residential land use be considered incompatible land use with any proposed retail, office, or residential development.

(2) Good cause is shown that such requirement cannot be met due to unique characteristics of the parcel being developed such as jurisdictional wetlands or cluster subdivisions developed pursuant to § 15.2-2286.1 of the Code of Virginia.

6. In instances where there is potential for conflict between this chapter and the Access Management Regulations: Principal Arterials (see ~~24VAC30-72~~ 24VAC30-92-150) or the ~~spacing standards established by the commissioner for minor arterial or collector roadways pursuant to § 33.1-198.1 of the Code of Virginia and Chapters 274 and 454 of the Acts of Assembly of 2008~~ Access Management Regulations: Minor Arterials, Collectors, and Local Streets (see 24VAC30-92-150), the following shall apply.

a. For streets with a functional classification of collector where additional connections necessary to meet the connectivity index requirement of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, such spacing standards shall be modified by the district administrator to allow for such connection. Such connection or connections shall be required to meet intersection sight distance standards specified in the Road Design Manual (see 24VAC30-92-150).

b. For streets with a functional classification of minor arterial where additional connections necessary to meet the connectivity index requirement of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, the

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district administrator shall, in consultation with the developer and the local official, either modify the applicable spacing standards to allow for such connection or connections, or modify the connectivity index requirement of this chapter to account for the inability to make such connection. Such connection shall be required to meet intersection sight distance as specified in the Road Design Manual (see 24VAC30-92-150).

c. For streets with a functional classification of principal arterial where additional connections necessary to meet the external connectivity requirements of this chapter cannot be accommodated within the applicable spacing standards and cannot otherwise be met through connections to lower order roadways or stub outs, the connectivity index requirement shall be modified by the district administrator to account for the inability to make such connection.

7. Failure to connect. As a local governing body is not required to approve a subdivision plat that does not connect to stub outs in adjacent developments, when a local government approves a subdivision plat for a new development that does not connect to a stub out or stub outs in an adjacent development and such development's network addition or individual street would meet the applicable requirements of this chapter if it connected to a stub out or stub outs in the adjacent development, the network addition or individual street may be accepted into the secondary system of state highways for maintenance. In such event the department representative's and the commissioner's top priority for expenditure of improvements funds for such locality's six-year plan for secondary highways shall be to connect the street or streets in the recently accepted network addition or individual street to the stub out or stub outs in the adjacent developments in addition to safety.

24VAC30-92-70. Administrative procedure.

A. Conceptual sketch. A conceptual sketch of the development that shows sufficient information for the department to review and concur with the proposed functional classification for each street in the development shall be provided to the district administrator's designee by the local official prior to preparing detailed construction plans for review. Any preliminary or conceptual plat, plan or sketch that conforms to the locality's zoning requirements or subdivision ordinance is acceptable if the information required by this subsection is shown. The submittal should include:

1. The general location and configuration, including the terminus, of each street, and the traffic volume anticipated when the land served is fully developed in accordance with the land uses anticipated.

2. The location, area, and density or floor area ratio (FAR) of each type of proposed land use within the development.

3. The location of any proposed transportation facility including any public transportation facilities as well as bicycle and pedestrian accommodations within the development's boundaries included in the comprehensive plan of the governing body.

4. The proposed functional classification for each street in the development.

5. The connectivity index of the network addition as proposed, if applicable.

6. The location of stub outs on adjoining property and the existing land use of such adjacent property, if applicable, and the location of any proposed stub outs within the network addition, if applicable.

7. Any reductions to the connectivity requirement pursuant to 24VAC30-92-60 C 5 a and approved modifications to the connectivity requirement pursuant to 24VAC30-92-60 C 5 b.

8. Any requests for modifications to the connectivity requirement pursuant to 24VAC30-92-60 C 5 b.

9. General preliminary information on the type of any stormwater management facilities that are proposed to be located within the right-of-way as described in 24VAC30-92-120 L 2.

10. Other available information pertinent to the intended development, including but not limited to any proposed phased development of streets pursuant to 24VAC30-92-80.

B. Conceptual sketch review. The district administrator's designee will review the layout and functional classification of streets shown in the concept sketch and within 45 calendar days notify the local official in writing, as well as the developer, if applicable, of his concurrence or recommendations and whether or not the streets in the proposed network addition meet the connectivity and other requirements of this chapter. This concurrence will be valid as long as the basic concept for the development, including the general street layout and design, as submitted for review, remains unchanged. The district administrator's designee shall also review any unresolved request for modifications to the connectivity index requirement and include his decision in the written notification to the local official and the developer. As part of his review, the district administrator's designee shall review the provision of collector and other higher order streets and if necessary make recommendations for the provision of such streets to address the traffic generated by the development.

C. Plan of development submission. Plats or plans, or both, together with other pertinent data as herein prescribed, shall

be submitted to the local official in accordance with the practices of the local government and to the district administrator's designee for all proposed developments whose streets are intended to be added to the secondary system of state highways maintained by the department. The district administrator's designee may, subject to the availability of staff and upon the request of the local official, cooperate in the review of proposed developments to be developed to these standards but not initially intended for addition to the secondary system of state highways maintained by the department. The department may recover the costs for this service in accordance with 24VAC30-92-140.

D. Plan review. Upon receipt of the plats or plans, or both, the district administrator's designee will arrange for the appropriate review to determine compliance with the requirements of this chapter and other applicable VDOT requirements. The general procedure for this review is described in the guidance document for the Commonwealth Transportation Board's Secondary Street Acceptance Requirements (see 24VAC30-92-150).

E. Plan approval. The district administrator's designee will advise the appropriate local official and the developer, if applicable, as to the results of the review.

1. If the street development proposed by the plats or plans, or both, is determined to be in compliance with these requirements, the district administrator's designee will provide written confirmation of this finding. This action signifies the district administrator's designee's approval of the street layout and design shown on the plats or plans, as submitted. Any subsequent revision, additions, or deletions thereto shall require specific written approval of the district administrator's designee for each such change.

2. If a revision of the submitted plats or plans is determined necessary, the district administrator's designee will list the required changes in a written response to the local official and the developer, if applicable. Upon completion of the specified revisions, the plats or plans will be resubmitted for review and approval by the district administrator's designee.

The department's approval of a street construction plan shall constitute its commitment to accept the street or network addition depicted thereon when all applicable provisions of these requirements are satisfied and the streets have been constructed according to the approved construction plan and supporting specifications. However, during the department's or other approved inspection of construction as specified by this chapter, if a situation is discovered that was not addressed on the approved plan that could, in the opinion of the district administrator's designee, adversely affect public safety or the integrity of either the roadway or the adjacent property, acceptance of the street or network addition shall be deferred until the situation is corrected.

The department's approval of a street construction plan shall expire after a period of five years if construction has not commenced, in which case the subdivision street construction plan shall be resubmitted for subsequent review and approval. This shall not affect the adequacy of the approved concept plan as depicted on a recorded final plat, as provided for under § 15.2-2241 of the Code of Virginia.

Network additions will only be accepted when the entire network addition has been constructed, except in such instances where the constructed portion meets the applicable public benefit requirements of this chapter.

F. Street acceptance. Upon the satisfactory completion of construction of the street or streets in a network addition, the department will advise the local governing body regarding the street or network addition's readiness for acceptance and the local governing body, in consultation with the district administrator's designee, will initiate its acceptance into the secondary system of state highways maintained by the department provided:

1. The developer dedicates the prescribed right-of-way to public use.
2. The street has or streets in the network addition have been constructed in accordance with the applicable specifications, standards and the plats or plans approved by the department.
 - a. Traffic control markings, signs, and devices have been installed in accordance with VDOT standards, specifications, and practices.
 - b. Speed limits have been set in accordance with Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia. For any streets with speed limits different from those set out in § 46.2-870 or §§ 46.2-873 through 46.2-875 of the Code of Virginia, traffic engineering investigations supporting such speed limits have been submitted to VDOT.
3. The developer furnishes all required information and data to the district administrator's designee and the local government official pertaining to the development's stormwater management system that are pertinent to the locality's, department's, or other entity's Municipal Separate Storm Sewer System (MS4) permit, if applicable.
4. The street or streets in a network addition provides sufficient public benefit as prescribed in 24VAC30-92-60 and meets the requirements of this chapter.
5. The street or streets in the network addition has been properly maintained since its completion.
6. The developer furnishes the surety and fees in accordance with 24VAC30-92-140.
7. The governing body has executed all agreements prescribed by these requirements, unless specifically

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waived on an individual case basis by the ~~Director of the Maintenance Division~~ department employee, or his successor or his designee, responsible for overseeing these requirements and the final acceptance of streets as part of the secondary system of state highways maintained by the department.

8. The governing body, by proper resolution, requests the department to accept the street or streets in the network addition for maintenance as part of the secondary system of state highways under its jurisdiction. The resolution shall include the governing body's guarantee of an unrestricted and unencumbered right-of-way as dedicated, plus any necessary easements for fills, drainage, or sight distance.

Upon the department's determination that the requested street or network addition is in compliance with the applicable provisions of these requirements, the governing body will be officially advised of the street or network addition's acceptance into the secondary system of state highways and the effective date of such action. This notification serves as the district administrator's designee's authority to begin maintenance thereon.

24VAC30-92-120. Design and agreement requirements.

A. General requirements. Most criteria addressing the design of new streets can be found in the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-150). However, the following provisions are provided for guidance, particularly in regard to features that require agreements or formal acknowledgements of the governing body before VDOT's acceptance of the street or streets within a development.

When an agreement is required between the local governing body and the department as a prerequisite to the acceptance of a street, nothing in these requirements shall preclude the local governing body from entering into separate agreements with other entities to fulfill its responsibilities. However, if the provisions are intended to ensure the safety of the public using the street, the department reserves the right to approve the involvement of the other party or parties.

All streets functionally classified as local shall have a design speed equal to the posted speed limit, except for streets functionally classified as local with a projected traffic volume of 400 vehicles per day or less, which may have a design speed less than the posted speed limit.

The department, locality, and developer shall take measures to minimize the impacts of through traffic on streets functionally classified as local and accepted into the secondary system of state highways under these regulations. Such measures shall include initial street designs that manage motor vehicle speed to match local context.

B. Geometric requirements. Geometric requirements for new streets are established in the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-150). Sufficient off-street parking must be provided by the local governing body in accordance with this chapter if streets in a proposed network addition are constructed in accordance with design requirements for streets with off-street parking.

C. Turn lanes. Left or right turn lanes shall be provided at intersections when the department determines that projected turning movements warrant their installation. These facilities shall be designed in accordance with the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-150) and, if necessary, additional right-of-way shall be provided to accommodate these facilities.

D. Pavement structure.

1. Pavement design. The pavement structure for new streets shall be in accordance with the Pavement Design Guide (see 24VAC30-92-150), including any prescribed underdrains. Prior to construction of the pavement sub-base and finish courses, the district administrator's designee shall approve the proposed pavement design.

2. Special pavement surfaces. The district administrator's designee may approve special pavement surfaces, such as the use of stamped pavement. However, if the pavement design is a type not addressed by the Pavement Design Guide (see 24VAC30-92-150), an agreement shall be provided by the governing body that addresses the future maintenance of such pavement.

3. Pavement additions to existing streets. When an existing VDOT-maintained roadway is to be widened to accommodate additional lanes or the addition of turn lanes, the necessary pavement design shall be obtained from the district administrator's designee and the entire surface of the roadway (old and new portions) may be required to be overlaid and restriped if required by the district administrator's designee. The district administrator's designee shall not require the entire surface of the roadway to be overlaid and restriped when the only pavement addition to the existing roadway was for bicycle lanes unless extenuating circumstances require that the entire surface of the roadway be overlaid and restriped.

E. Parking.

1. Perpendicular and angle parking along streets is normally prohibited. However, perpendicular and angle parking along streets may be considered if the features along the street cause the street to readily appear to be a street rather than a travel way through a parking lot.

Street design that anticipates limited or no on-street parking shall be approved when sufficient off-street parking is provided in accordance with this chapter. Street design that anticipates the restriction of on-street parking

on one side of the street shall be approved when sufficient off-street parking is provided for buildings on the side of the street where it is anticipated parking will be restricted.

2. For streets designed without on-street parking, a minimum of two off-street parking spaces per dwelling unit shall be provided in proximity of the unit that they are intended to serve. Such spaces, which may be provided in a parking bay or garage facilities, shall be provided outside of the street's right-of-way. The district administrator's designee may approve lesser parking requirements for individual developments or classes of developments when evidence is presented to support such an approval such as proximity to transit service or the nature of the development. Entrances to parking bays and garage facilities shall be designed in accordance with the appropriate provisions of the Land Use Permit Manual (24VAC30-150) Regulations (see 24VAC30-92-150) and the Access Management Regulations: Principal Arterials (24VAC30-72) (see 24VAC30-92-150).

3. In instances where the local governing body has determined, through adoption of a parking ordinance or other similar ordinance, that lesser parking requirements are sufficient for certain classes of development, such lesser requirements shall govern.

4. The department shall not prohibit roadway design that allows for the provision of on-street parking on any roadway with a functional classification of collector or local where the posted speed limit is 35 miles per hour or less and that is located within a compact or suburban area type.

F. Cul-de-sacs and turnarounds. An adequate turnaround facility shall be provided at the end of each cul-de-sac to permit the safe and convenient maneuvering by service vehicles. Various configurations of turnarounds are illustrated in the Subdivision Street Design Guide (see 24VAC30-92-150); however, alternative configurations may be approved by the district administrator's designee. Additional right-of-way shall be provided as required by the design of the turnaround. Normally, any nontraveled way areas within the turnaround, such as an island, shall be included in the dedicated right-of-way of the facility unless the department and the locality are able to reach an agreement for the maintenance of such nontraveled way areas. Nothing in this chapter shall prohibit the provision of stormwater management facilities in the nontraveled way areas of a cul-de-sac, provided the requirements of subsection L of this section are met.

For circular turnarounds, a well-defined, identifiable street segment, equal to the normal lot width along the intersected street that serves the cul-de-sac, or 50 feet, whichever is greater, shall extend from the intersected street to the turning area.

G. Curb and gutter. For the purpose of these requirements, the use of curb and gutter is an acceptable roadway design, rather than a requirement. However, when used, curb and gutter shall be designed in accordance with the Road Design Manual and the Subdivision Street Design Guide (see 24VAC30-92-150) and only one curb and gutter design may be used along the length of a street.

1. Driveway entrance requirements. Without regard to the curb design used, the curb shall incorporate a driveway entrance apron, as illustrated in the Subdivision Street Design Guide (see 24VAC30-92-150), to provide a smooth transition from the gutter invert or roadway surface onto the driveway.

2. Curb ramps. All streets that incorporate accessible routes for pedestrian use shall, without regard to the curb design used, include curb ramps at intersections for use by persons with disabilities and shall incorporate other applicable provisions of the Americans with Disabilities Act (42 USC § 12101 et seq.).

H. Private entrances. All private entrances shall be designed and constructed in accordance with the Subdivision Street Design Guide (see 24VAC30-92-150).

I. Pedestrian, bicycle, and shared use path facilities. The Commonwealth Transportation Board's "Policy for Integrating Bicycle and Pedestrian Accommodations" emphasizes accommodating pedestrian and bicycle traffic. Any street proposed for VDOT acceptance shall accommodate pedestrian and bicycle traffic in accordance with the Commonwealth Transportation Board's policy and this chapter. Pedestrian and bicycle facilities should be included in the initial construction of the street, prior to VDOT acceptance.

1. Pedestrian accommodation requirements. Pedestrian accommodations shall be provided based upon density of development, the plans for or existence of public schools in the vicinity, the presence of existing pedestrian accommodations, and the operational nature of the fronting street. In all developments with pedestrian accommodations, such accommodations shall connect with existing pedestrian accommodations and allow for connection to future pedestrian accommodations to adjacent parcels. If multiple requirements apply to a street, the greater accommodation requirement shall govern.

a. Pedestrian accommodations shall be provided along both sides of the street or provisions made that provide equivalent pedestrian mobility in areas with a median lot size of one half acre or less or a floor area ratio (FAR) of 0.4 or greater.

b. Pedestrian accommodations shall be provided along at least one side of the street or provisions made that provide equivalent pedestrian mobility in areas that have a median lot size between one-half acre to two acres.

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c. Pedestrian accommodations shall be provided along at least one side of the street or provisions made that provide equivalent pedestrian mobility in suburban and compact area types along roadways within one-half centerline mile of a public school.

d. When connecting to a stub street that has pedestrian accommodations, the new street shall also include pedestrian accommodations.

e. Pedestrian accommodations shall be provided along at least one side of, or provisions made that provide equivalent pedestrian mobility along, streets functionally classified as collectors or arterials with two travel lanes not including turn lanes. In no instance shall any sidewalk abut the curb or the edge of a collector or higher order street, unless the sidewalk is at least eight feet wide. In such instances tree wells shall be provided. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street.

f. Pedestrian accommodations shall be provided along both sides of, or provisions made that provide equivalent pedestrian mobility along, streets functionally classified as collectors or arterials with three or more travel lanes. In no instance shall any sidewalk abut the curb or the edge of a collector or higher order street, unless the sidewalk is at least eight feet wide. In such instances tree wells shall be provided. In instances where it is necessary to retrofit streets with pedestrian accommodations to allow the streets to be accepted into the secondary system of state highways, the pedestrian accommodations less than eight feet wide may abut the curb or the edge of the street.

2. Maintenance of pedestrian and bicycle accommodations. Pedestrian and bicycle facilities are eligible for VDOT acceptance and maintenance based on the criteria of this section. A copy of an agreement or other document showing the proposed maintenance responsibilities of pedestrian and bicycle facilities shall be provided to VDOT for any pedestrian accommodation outside of the VDOT right-of-way that is used to meet the accommodation requirements of this subsection.

a. Compliant facilities. Pedestrian and bicycle facilities, including shared use paths as defined under § 46.2-100 of the Code of Virginia, shall be accepted as part of the street or network addition, unless otherwise requested by the governing body, provided they are located fully within the dedicated right-of-way of the street and they are constructed in accordance with applicable criteria and standards of the department.

(1) Sidewalk criteria. Sidewalks shall be constructed in accordance with the Subdivision Street Design Guide (see 24VAC30-92-150).

(2) Bicycle facility criteria. Bicycle facilities contiguous with the street shall be in accordance with the department's design and construction criteria set forth in the Road Design Manual (see 24VAC30-92-150).

(3) Shared use path criteria. Shared use paths shall be constructed in accordance with the Road Design Manual (see 24VAC30-92-150) and closely follow the vertical alignment of the roadway without meandering on and off the right-of-way.

b. Noncompliant sidewalk, bicycle, and shared use paths. Noncompliant sidewalk, bicycle, and shared use paths that fail to meet requirements of the department's standards for construction, alignment, or placement within the dedicated right-of-way of the street shall be deemed to be noncompliant and not qualify for maintenance unless a design waiver or exemption is granted by the department. Noncompliant sidewalks and shared use paths may be constructed of stabilizer convenient to the applicant. Noncompliant facilities may co-exist within the dedicated right-of-way of the street under a land use permit issued by the district administrator's designee to the local governing body responsible for having established the facility through its subdivision process or other development process.

Such permits will clearly specify the responsibility for maintenance of the facility and related activities to the extent the facility occupies the street's right-of-way. The permit applicant should be an entity that can be reasonably expected to have perpetual maintenance capability.

J. Bridge, drainage, and other grade separation structures. Bridges, drainage, and other grade separation structures shall be designed and constructed in accordance with all applicable department criteria and standards. The district administrator's designee may require special review of the plans and construction inspection.

The department will accept grade separation structures as part of new streets, provided the structure is a drainage structure or is intended to separate the movement of registered motor vehicles. In addition, the department will accept grade separation structures intended to separate pedestrians or bicyclists or any combination thereof from traffic using the roadway, provided:

1. The structure is available for unrestricted public use;
2. The structure is accessible to pedestrian accommodations situated along the street; and
3. The projected traffic volume of the street is (i) not less than 4,000 vpd or (ii) if the structure otherwise serves as

part of the principal pedestrian access to a school or a mass transit facility including stops and stations and a peak hour traffic volume of 450 vph or greater is projected.

In all other instances, the grade separation structure shall be deemed to be a locally controlled grade separation structure within the right-of-way of the street, in which case the street will only be accepted as part of the secondary system of state highways maintained by the department after the local governing body and the department have executed an agreement acceptable to the department that (i) acknowledges the department has no responsibility or liability due to the presence of the structure and (ii) assures the burden and costs of inspection, maintenance, and future improvements to the structure are provided from sources other than those administered by the department.

In all cases, whether the structure is accepted as an integral part of the roadway for maintenance by the department or it remains a locally controlled structure, the lighting, safety, and security of those using such facilities shall remain a responsibility of local government.

K. Dams. The department will only consider accepting streets for maintenance that traverse dams when all of the following provisions are satisfied. For the purpose of this section, a roadway will be considered to traverse a dam if any part of the fill for the roadway and the fill for the dam overlap or if the area between the two embankments is filled in so that the downstream face of the dam is obscured or if a closed drainage facility from a dam extends under a roadway fill.

1. Agreements with the governing body. Except as exempt under subdivision 6 of this subsection, the governing body acknowledges by formal agreement the department's liability is limited to the maintenance of the roadway and that the department has no responsibility or liability due to the presence of the dam, the maintenance of which shall remain the responsibility of an owner, other than the department, as established by § 33.1-176 of the Code of Virginia.

2. Design review. An engineer licensed to practice in the Commonwealth of Virginia shall certify that the hydraulic and structural design of any dam, as described below, is in accordance with current national and state engineering practice and that all pertinent provisions of the Subdivision Street Design Guide (see 24VAC30-92-150) have been considered. Prior to approval of the roadway construction plans, the hydraulic and structural design of a proposed dam shall be reviewed by the department and meet the department's satisfaction if:
 - a. A roadway is considered to traverse a dam; or
 - b. A roadway is located below but sufficiently close to the dam that a catastrophic breach could endanger the roadway or the safety of those using the roadway.

3. Right-of-way requirements. The right-of-way of roads considered to occupy dams shall be recorded either as an easement for public road purposes or as a dedication specifically to the governing body. Right-of-way dedicated in the name of the Commonwealth or any of its agencies is not acceptable if it includes a dam, and roads through such right-of-way will not be accepted as a part of the secondary system of state highways maintained by the department.

4. Supplemental, alternative access. To be considered for VDOT maintenance, roadways that traverse a dam must be supplemented by an appropriate alternative roadway facility for public ingress or egress having suitable provisions that ensure perpetual maintenance.

5. Permits. All applicable federal and state permits associated with dams shall be secured and filed with the locality prior to VDOT's acceptance of any street that traverses a dam.

6. Dams exempt from agreements. The acceptance of roadways that traverse dams shall be exempt from the requirements for an agreement with the governing body, as required by subdivision 1 of this subsection, if all of the following is satisfied:
 - a. The dam is used to create a stormwater detention or retention facility;
 - b. The maximum depth of the water retained by the impoundment at its 100-year storm flood elevation is not greater than four feet; and
 - c. The surface area of the impoundment at full flood is not greater than two acres and is beyond the right-of-way dedicated to public use.

L. Roadway drainage.

1. Policy and procedures. All drainage facilities shall be designed in accordance with the department's Drainage Manual (see 24VAC30-92-150) and supplemental directives or the Subdivision Street Design Guide (see 24VAC30-92-150) as may be appropriate. All drainage computations supporting a proposed drainage design shall be submitted to the department for review as part of the documents necessary for the approval of a construction plan.

2. Stormwater management. Whereas the department considers matters regarding stormwater management associated with the construction of streets to be under the authority of the local governing body, decisions regarding stormwater management in the construction of streets are deferred to the locality. However, stormwater management, including the construction of detention or retention facilities, or both, is recognized as an available design alternative. Where the developer is required by regulations promulgated by an agency or governmental subdivision other than the department or the developer

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chooses to use stormwater management facilities in the design of a subdivision or other development, the governing body shall, by formal agreement, and as a prerequisite for the transfer of jurisdiction over the street to the department, acknowledge that the department is not responsible for the operation, maintenance, or liability of the stormwater management facility or facilities associated with the subdivision or the development. However, in the event the governing body has executed a comprehensive, localitywide agreement with the department addressing these matters, a specific agreement addressing stormwater management controls in the subdivision or development will not be required as a condition for street acceptance.

Stormwater management controls for VDOT projects are to be designed in accordance with the approved VDOT Erosion and Sediment Control and Stormwater Management Program Standards and Specifications, as annually approved by the Department of Conservation and Recreation (see 24VAC30-92-150), the Virginia Erosion and Sediment Control Regulations, 4VAC50-30, and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60). While these controls may be necessary whenever a street maintained by the department is widened or relocated, the department does not require them in the development of new streets because such activity is regulated by the local governments. However, developers and counties may find these controls useful in managing land development activity.

Generally devices and treatments intended to mitigate the impact of stormwater shall be placed off of the right-of-way and shall be designed to prevent the backup of water against the roadbed. However, such devices and treatments may be placed within the right-of-way if the department and the local governing body have executed an agreement that (i) acknowledges the department has no responsibility or liability due to the presence of the devices or treatments, or both; (ii) assures the burden and costs of inspection, maintenance, future improvements to the devices and treatments, or other costs related to the placement of such devices or treatments within the right-of-way are provided from sources other than those administered by the department; (iii) a professional engineer licensed by the Commonwealth or the manufacturer as required by the department, certifies the construction of the facility to plans reviewed by the department; and (iv) a concept of the facility is included in the department's Drainage Manual, the Department of Conservation and Recreation's Stormwater Handbook, or supplemental directives (see 24VAC30-92-150).

Where development activity results in increased runoff to the extent that adjustment of an outfall facility is required, such adjustment shall be at the developer's expense and shall be contained within an appropriate easement.

The department is required to implement the Municipal Separate Storm Sewer System (MS4) permit for facilities located on its right-of-way. To comply with these requirements, the local governing body shall provide all aspects of a proposed development's stormwater management system that are pertinent to the locality's or the agency's MS4 permit to the district administrator's designee.

3. Drainage easements.

- a. An acceptable easement shall be provided from all drainage outfalls to a natural watercourse, as opposed to a swale.
- b. The department normally accepts and maintains only that portion of a drainage system that falls within the limits of the dedicated right-of-way for a street. The department's responsibility to enter drainage easements outside of the dedicated right-of-way shall be limited to undertaking corrective measures to alleviate problems that may adversely affect the safe operation or integrity of the roadway.
- c. In the event drainage to a natural watercourse is not accomplished or is interrupted, an acceptable agreement from the governing body may be considered as an alternative to providing an easement to a natural watercourse, provided the agreement acknowledges that the department is neither responsible nor liable for drainage from the roadway.

M. Other design considerations.

1. Guardrail. Guardrail shall be used when required by the district administrator's designee, consistent with the Road Design Manual (see 24VAC30-92-150). For placement considerations, see the Subdivision Street Design Guide (see 24VAC30-92-150).
2. Landscaping and erosion control. All disturbed areas within the dedicated right-of-way and easements of any street shall be restored with vegetation compatible with the surrounding area. Where there is visual evidence of erosion or siltation, acceptance of the street as part of the secondary system of state highways maintained by the department will be postponed until appropriate protective measures, in accordance with VDOT's construction practices, are taken. Except as otherwise approved by the district administrator's designee, planting of trees or shrubs on the right-of-way shall be in accordance with the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-150).
3. Lighting. Roadway, security, or pedestrian lighting, when required by the governing body or desired by the developer, shall be installed in accordance with the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-150). However, VDOT shall

not be responsible for the maintenance or replacement of lighting fixtures or the provision of power for lighting.

4. Railroad crossings.

a. Short-arm gates with flashing signals, flashing signals alone, or other protective devices as deemed appropriate by the department shall be provided at any at-grade crossing of an active railroad by a street.

b. Crossings of railroad right-of-way are subject to the requirements of the railroad. Streets to be accepted by the department for maintenance as part of the secondary system of state highways that cross railroad right-of-way will only be considered if the protective measures outlined under this section have been fully installed and an agreement between the railroad, the developer, and the local governing body has been executed. Prior to execution, such agreements shall be presented to the department for consideration in consultation with the Department of Rail and Public Transportation.

5. Utilities. Local governments, the development community, and the utility community are encouraged to coordinate and consolidate their interests as part of the initial development plan.

a. Underground utilities. The department allows the placement of underground utilities within the dedicated right-of-way of streets, but normally restricts placement to areas outside of the travel lanes. However, if the governing body has established adequate requirements approved by the department for the design, location, and construction of underground utilities within the right-of-way of streets, including provisions that ensure that adequate testing and inspection is performed to minimize future settlement, those requirements shall become the department's requirements and govern provided those requirements exceed the department's requirements.

Manholes shall not be placed in sidewalk, multiuse trail, or shared use path facilities, within five feet of curb ramps or within driveway entrances.

When location of the utilities outside of the pavement area is not practical such as in high density developments incorporating the principles of new urbanism as described in § 15.2-2223.1 of the Code of Virginia, such installations:

- (1) Are acceptable within the shoulders along the street or within the parking area.
- (2) May be acceptable beneath the travel lanes of the street or alley when provisions are made to ensure adequate inspection and compaction tests and:
 - (a) Longitudinal installations and manholes are located outside of the normal travel lanes; or

(b) Longitudinal installations and manholes are placed in the center of a travel lane out of the wheel path.

However, manholes shall not be placed in sidewalk, multiuse trail, or shared use path facilities within five feet of curb ramps or within driveway entrances.

b. Open-cutting of hard-surfaced roadways. The department usually prohibits the open-cutting of hard-surfaced roads except in extenuating circumstances. Therefore, all underground utilities within the right-of-way, as determined necessary by good engineering practice to serve the complete development of adjacent properties, shall be installed during the street's initial construction and prior to the application of its final pavement surface course. This shall include extensions of all necessary cross-street connections or service lines to an appropriate location beyond the pavement and preferably the right-of-way line.

In the event it is necessary to open the street pavement to work on utilities after the surface has been placed, additional compaction tests and paving as necessary to restore the integrity and appearance of the roadway may be required at the discretion of the district administrator's designee.

c. Cross-street conduits. To facilitate the placement of future underground utilities, cross-street conduits are encouraged, with placement of such conduits occurring on each street at intersections.

d. Aboveground utilities. All aboveground utilities shall be installed behind the sidewalk or as close as possible to the limits of the street's right-of-way but shall not encroach on the sidewalk, the shared use path, or any clear zone.

To assure the unencumbered dedication of the right-of-way for street additions, easements or other interests within the platted right-of-way shall be quitclaimed of any prior rights therein. In exchange, a permit may be issued by the department for a utility to occupy the area involved. This permit will be processed by the district administrator's designee upon acceptance of the street into the secondary system of state highways maintained by the department. No inspection fee is required for permits so issued. However, the approval of the permit shall be contingent upon the utility's compliance with applicable provisions of the Land Use Permit Manual Regulations (see ~~24VAC30-150~~ 24VAC30-92-150).

24VAC30-92-130. Right-of-way width, spite strips, and encroachments.

A. Right-of-way width. A clear and unencumbered right-of-way shall be dedicated to public use for any street proposed for addition to the secondary system of state highways maintained by the department. However, in certain rare

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extenuating circumstances involving a party beyond the influence of the developer, an easement for transportation purposes may be approved by the district administrator's designee in lieu of dedicated right-of-way. In all other cases, any easement that might interfere with the public's unencumbered use of the street shall be quitclaimed in exchange for a land use permit as outlined in 24VAC30-92-120 M 5.

The width of right-of-way shall be as indicated in the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-150) and shall be sufficient to include all essential elements of the roadway intended to be maintained by the department, including pedestrian, multiuse trail, bicycle, or shared use path facilities and clear zone. However, supplemental easements may be used to accommodate sight distance requirements and slopes for cuts and fills. The right-of-way requirements are defined in the Subdivision Street Design Guide and the Road Design Manual (see 24VAC30-92-150).

When an existing state maintained road is widened, the additional right-of-way should be dedicated as follows:

1. If the existing right-of-way consists of a prescriptive easement, to the degree that the developer controls the land, the right-of-way shall be dedicated to public use from the centerline of the alignment.
2. If the existing right-of-way is dedicated to public use, the additional right-of-way shall be dedicated to public use.
3. If the existing right-of-way is titled in the name of the department or the Commonwealth, the additional right-of-way shall be deeded to the department or to the Commonwealth, consistent with the title of the existing right-of-way.

B. "Spite strips." Plans that include a reserved or "spite" strip that prohibits otherwise lawful vehicular access to a street from the adjacent properties, whether within or outside the subdivision or development, will not be approved.

C. Encroachments within the right-of-way. Recording of a plat causes the fee title interest of areas dedicated to public use to transfer to the local governing body. Therefore, objects installed within the right-of-way for purposes other than transportation may be considered an unlawful encroachment in the right-of-way and prevent the right-of-way from being considered clear and unencumbered.

Posts, walls, signs, or similar ornamental devices that do not interfere with roadway capacity, encroach into a clear zone, or interfere with prescribed sight distance requirements, or are not in conflict with Chapter 7 (§ 33.1-351 et seq.) of Title 33.1 of the Code of Virginia may be permitted within the right-of-way. However, specific authorization by the district administrator's designee or as authorized under the Land Use Permit ~~Manual~~ Regulations (see 24VAC30-92-150) is a

requisite for these devices or any other encroachment located within the right-of-way. For the purposes of this subsection, mailboxes installed on breakaway posts may occupy the right-of-way without permit. Otherwise, encroachments that do not fall within the clear zone may be allowed within the right-of-way pursuant to a land use permit issued by the district administrator's designee.

24VAC30-92-150. Documents incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from the department may be obtained from the ~~department's division indicated~~ department at 1401 E. Broad St., Richmond, Virginia 23219; however, department documents may be available over the Internet at www.virginiadot.org.

The department shall post all nonregulatory documents incorporated into this regulation by reference and under its control on its website. Official regulatory text is maintained by the Virginia Registrar of Regulations in the Virginia Administrative Code. After the effective date of any changes to such incorporated documents under the control of the department, the department shall post the changes for a period of at least 60 days on its website. Any changes to regulations appearing in this list shall be made in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia), or both.

A. Access Management Regulations: Principal Arterials, 24VAC30-72.

~~Maintenance Division (VDOT)~~ VDOT
1401 E. Broad St.
Richmond, VA 23219

B. Access Management Regulations: Minor Arterials, Collectors, and Local Streets, 24VAC30-73.

VDOT
1401 E. Broad St.
Richmond, VA 23219

~~B- C.~~ Drainage Manual, 2002.

~~Location and Design Division (VDOT)~~ VDOT
1401 E. Broad St.
Richmond, VA 23219

~~C- D.~~ Guidance Document for the Commonwealth Transportation Board's Secondary Street Acceptance Requirements, 2009.

~~Maintenance Division (VDOT)~~ VDOT
1401 E. Broad St.
Richmond, VA 23219

~~D- E.~~ Highway Capacity Manual, 2000.
Transportation Research Board
500 Fifth Street, NW

Washington, DC 20001

~~E. E.~~ Land Use Permit ~~Manual~~, 24VAC30-150
Regulations, 24VAC30-151.

~~Maintenance Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~F. G.~~ Materials Division Manual of Instructions, 2006.

~~Materials Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~G. H.~~ Pavement Design Guide for Subdivision and
Secondary Roads in Virginia, 2000.

~~Materials Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~H. I.~~ Policy for Integrating Bicycle and Pedestrian
Accommodations, 2004. (Note: This policy reference is
included in the regulation only for informational purposes
and is not considered a regulatory provision. Applicable
elements of this policy are stated in the regulation itself.)

~~Commonwealth Transportation Board~~

1401 E. Broad St.
Richmond, VA 23219

~~I. J.~~ Road and Bridge Specifications, 2007, revised 2008.

~~Scheduling and Contract Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~J. K.~~ Road and Bridge Standards, 2008.

~~Location and Design Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~K. L.~~ Road Design Manual, 2008.

~~Location and Design Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~L. M.~~ Traffic Impact Analysis Regulation, 24VAC30-155.

~~Maintenance Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~M. N.~~ VDOT Erosion and Sediment Control and
Stormwater Management Program Standards and
Specifications, 2004.

~~Location and Design Division (VDOT) VDOT~~

1401 E. Broad St.
Richmond, VA 23219

~~N. O.~~ Virginia Erosion and Sediment Control Regulations,
4VAC50-30.

Virginia Department of Conservation and Recreation
Division of Soil and Water Conservation
203 Governor Street, Suite 302

Richmond, VA 23219-2094

~~O. P.~~ Virginia Stormwater Management Program (VSMP)
Permit Regulations (4VAC50-60).

Virginia Department of Conservation and Recreation

Division of Soil and Water Conservation

203 Governor Street, Suite 302

Richmond, VA 23219-2094

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Final Regulation

Title of Regulation: **24VAC30-121. Comprehensive
Roadside Management Program (amending 24VAC30-
121-30, 24VAC30-121-40).**

Statutory Authority: §§ 33.1-12 and 33.1-223.2:9 of the Code
of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Brian Waymack, State Roadside Manager,
Department of Transportation, Maintenance Division, 1401
East Broad Street, Richmond, VA 23219, telephone (804)
662-7512, FAX (804) 662-9405, or email
brian.waymack@vdot.virginia.gov.

Summary:

*The amendments (i) replace references to the recently
repealed Land Use Permit Manual (24VAC30-150) with
references to the new Land Use Permit Regulations
(24VAC30-151); (ii) change the citation for the General
Rules and Regulations of the Commonwealth
Transportation Board from 24VAC30-20 to 24VAC30-21
to reflect the new replacement regulation; (iii) remove
division names, particularly in the documents incorporated
by reference section, to accommodate changes in division
names and transfer of responsibilities within VDOT; and
(iv) correct minor typographical errors.*

24VAC30-121-30. Application requirements.

A. All program activities must be applied for by the local
governments within the jurisdiction in which the activity is
proposed to occur in accordance with the General Rules and
Regulations of the Commonwealth Transportation Board
(~~24VAC30-20-20 and 24VAC30-20-80~~) (24VAC30-21) and
the Land Use Permit ~~Manual~~ (24VAC30-150) Regulations
(24VAC30-151). The Land Use Permit ~~Manual~~ Regulations
and the general rules may be obtained from the ~~Asset
Management Division~~, Virginia Department of
Transportation, 1401 East Broad Street, Richmond, Virginia
23219, or by accessing the Virginia Administrative Code
website at <http://leg1.state.va.us/000/reg/TOC24030.HTM>
[http://lis.virginia.gov/cgi-
bin/legp604.exe?000+reg+TOC24030](http://lis.virginia.gov/cgi-bin/legp604.exe?000+reg+TOC24030).

1. Single activity or segment permit. A local government
may apply for a permit for each individual proposed
activity or for all proposed activities on a specific route.

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2. Jurisdiction-wide permit. A local government may apply for a jurisdiction-wide permit to cover all proposed activities occurring within that local government's jurisdictional boundaries on the right-of-way. Such jurisdiction-wide permits must be renewed on an annual basis from the date of permit issuance.

B. The application shall be in the form prescribed by the Land Use Permit ~~Manual~~ Regulations and shall at a minimum include:

1. The name, telephone number, and complete mailing address of the local government and the authorized local government representative who shall be officially designated by the local government as having full administrative and operational authority over all proposed activities;
2. A maintenance agreement that outlines obligated specific maintenance activities and responsibilities, projected maintenance costs, and related funding commitments necessary to ensure areas are maintained and performing as originally permitted; and
3. A formal resolution of endorsement from the local governing body, adopted subsequent to a public hearing during which the proposed landscaping activities are made available for review. The local governing body shall provide written notification to the department of its intention to hold such a hearing no later than 14 days prior to such hearing. Such notification shall be made to the ~~Asset Management Division Administrator~~, Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219.

24VAC30-121-40. Conditions.

A. In order to participate in the program, each project must comply with the Land Use Permit ~~Manual~~ Regulations and the general, site, and design considerations specified in this section.

B. General considerations. The following general considerations apply to any permitted activity:

1. Qualifications. All work shall be performed by qualified local government personnel or qualified individuals acting as an agent of the permitted local government.
2. Compliance. Such work shall comply with all departmental specifications, standards, policies, and guidance and all applicable federal, state, and local government policies, laws, regulations, and ordinances.
3. Improvement. Any permitted activity must ensure a net improvement to existing right-of-way conditions and impose no net operational or financial burden to the department as determined by the department.
4. The permittee shall be responsible for the maintenance of the permitted areas in perpetuity. In the event the

permittee fails to adequately maintain the improvements, the department may, at its discretion, revoke the permit. Prior to such revocation, the department may, at its discretion and at the permittee's expense, return the permitted area to its original condition.

5. The master plan, project concept plan, sketches, drawings, estimates, specifications, and descriptive text of all activities and any required federal, state, or local permits shall be available for review by the department at all times.

C. Site considerations. For sites to be approved by the department, the following site conditions must be met. The site must:

1. Not be scheduled for future construction as defined within the department's current six-year improvement plan, which would conflict with the activities proposed on the project;
2. Contain sufficient right-of-way to reasonably permit planting and landscaping operations without conflicting with safety, geometric, and maintenance considerations;
3. Not contain overhead or underground utilities, driveways, pavement, sidewalks, or highway system fixtures including traffic signage or signalization that will conflict with the planting or landscaping operations proposed under the project; and
4. Not obstruct or interfere with existing drainage conditions along the site.

D. Design considerations. For sites to be approved by the department, the following design considerations must be met.

1. The project design shall not include the following design elements:
 - a. Lighting;
 - b. Flagpoles or pennant poles;
 - c. Fountains or water features;
 - d. Landscaping that depicts or represents any logo, name, or constitutes an advertisement in any form;
 - e. Statuary, sculpture, or other art objects;
 - f. Pruning or cutting within highway rights-of-way of vegetation with trunk base diameter greater than four inches, unless approved by the District Roadside Manager;
 - g. Any improvements intended to provide greater visibility to any existing or future business, advertisement or advertising structure; or
 - h. Any improvements that obscure or interfere with the view of existing lawfully erected advertising structures from the main traveled way.

2. Acknowledgement signs and structures installed pursuant to this program must meet the following design specifications:

- a. Panels per sign structure: a maximum of two acknowledgement panels per sign structure.
- b. Panel dimensions: 6 feet wide by 20 inches tall; 3 inches corner radii; 1.5 inch—2 inches thick.
- c. Sign material: high density sign foam or equivalent.
- d. Background color options: dark blue (Pantone Matching System #288 or equivalent as determined by the ~~Asset Management Division~~ department), dark burgundy (Pantone Matching System #188 or equivalent as determined by the ~~Asset Management Division~~ department), dark green (Pantone Matching System #349 or equivalent as determined by the ~~Asset Management Division~~ department), or off-white (Pantone Matching System Cool Gray 1 or equivalent as determined by the ~~Asset Management Division~~ department).
- e. Sign border: must be inset 1 inch from outside edge to a 3/4-inch wide border formed by sandblasting or routing a depth of 1/4-inch to 1/2-inch; color must be off-white (Pantone Matching System Cool Gray 1 or equivalent as determined by the ~~Asset Management Division~~ department) if dark background or dark blue (Pantone Matching System #288 or equivalent as determined by the ~~Asset Management Division~~ department), dark burgundy (Pantone Matching System #188 or equivalent as determined by the ~~Asset Management Division~~ department), or dark green (Pantone Matching System #349 or equivalent as determined by the ~~Asset Management Division~~ department) if off-white background.
- f. Acknowledgement content: a single sponsoring entity may be represented per panel; the representation may be placed within but no closer than 1/2—inch inside the border and formed by sandblasting or routing a depth of 1/4 inch to 1/2 inch.
- g. The words "Landscaping by" must be included in the upper left hand area of the border and must be a minimum of three inches tall. The border must be broken and the color of the "Landscaping by" must be the same as the border.
- h. Installation: the bottom of the sign at its closet point to the ground shall not be greater than 30 inches above the ground. The distance between panels shall not exceed four inches. Post height shall not exceed five inches above the top of the highest panel, with the top one inch trimmed at a 45-degree angle. Post stain color must be a solid gray (Pantone Matching System #423 or equivalent as determined by the ~~Asset Management Division~~ department).

3. In the event an acknowledgement sign structure or panel is damaged, the permittee shall be responsible for repairing or replacing the sign.

4. Acknowledgement sign structures installed pursuant to this program may be placed within the right-of-way at the following locations:

- a. Noncontrolled access primary and secondary highways with speed limits of 45 mph or less: no greater than one acknowledgement sign structure per direction per 1/4 mile of main traveled way.
- b. Noncontrolled access primary and secondary highways with speed limits greater than 45 mph: one acknowledgement sign structure per direction per 1/2 mile of main traveled way.
- c. Controlled access primary and secondary highways with speed limits of 45 mph or less: no greater than one acknowledgement sign structure per direction per 1/4 mile of main traveled way except as specified in subdivision 4 e of this subsection.
- d. Controlled access primary and secondary highways with speed limits greater than 45 mph: no greater than one acknowledgement sign structure per direction per 1/2 mile of main traveled way except as specified in subdivision 4 e of this subsection.
- e. Interchanges on controlled access interstates, primary and secondary highways: no greater than one acknowledgement sign structure per turning roadway.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name to access the form. The form is also available through the agency contact or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (24VAC30-121)

~~Land Use Permit Manual Application Form (Revised 10/2003).~~

[Land Use Permit Application, LUP-A \(rev. 3/10\).](#)

VA.R. Doc. No. R11-2160; Filed March 22, 2011, 9:42 a.m.

Final Regulation

Title of Regulation: 24VAC30-200. **Vegetation Control Regulations on State Rights-of-Way (amending 24VAC30-200-10, 24VAC30-200-30, 24VAC30-200-40).**

Statutory Authority: §§ 33.1-12 and 33.1-351 of the Code of Virginia.

Effective Date: May 11, 2011.

Regulations

Agency Contact: Robert H. Hofrichter, Assistant Director of Land Development, Department of Transportation, Maintenance Division, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-0780, FAX (804) 786-0628, or email robert.hofrichter@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151), (ii) remove division names in the documents incorporated by reference section to accommodate changes in division names and transfer of responsibilities within VDOT, and (iii) make other minor technical corrections.

24VAC30-200-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in § 33.1-1 of the Code of Virginia.

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

"Federal-aid primary highway" means any highway as defined in § 33.1-351 of the Code of Virginia.

"Inspector" means any employee designated by the Commonwealth Transportation Commissioner or local government official, to review and approve or deny the permit application and landscape plan, inspect the work performed under authority of this chapter, and make a final approval concerning the work performed.

"Interstate system" means any highway as defined in § 33.1-48 of the Code of Virginia.

"Land Use Permit Manual" ~~Regulations~~ means the ~~manual (24VAC30-150) maintained regulations (24VAC30-151)~~ promulgated by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.1-57 of the Code of Virginia.

"Local beautification project" means any project in a locality that includes installation of plant materials, using public or other funds, in any public right-of-way within a city or town, or on a highway or street in a county with the county manager form of government.

"Local government official" means an employee of a local government delegated authority by the city or town council or county board of supervisors where the public right-of-way is within the jurisdictional limits of a city or town on a highway or street not within the jurisdiction of the Commonwealth Transportation Commissioner under § 33.1-353 of the Code of Virginia, or on a highway or street in a county with the county manager form of government.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable using the natural method under the standards and guidelines listed in 24VAC30-200-40 published by the American National Standards Institute, the American Association of Nurserymen, and the International Society of Arboriculture.

"Specifications" means the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 2002).

"Unightly" means vegetation to be selectively removed at VDOT's or the local government official's discretion.

24VAC30-200-30. Special provisions.

A. The permittee shall attach two each 8" x 10" color glossy photographs (a closeup and a distant view) with the permit application showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting, or both, will be inspected by the department or local government official and approval or denial given.

A permit may be denied any applicant, and all permits issued by the board or local government official may be revoked whenever, in the opinion of the inspector, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department or local government official to assign inspectors to the work, the permittee shall pay the department or local government issuing the permit an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the inspector or inspectors assigned by the department or local government for handling work covered by this chapter. Said

inspection fee to be paid promptly each month on bills rendered by the department or local government.

The absence of a state or local government inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of § 33.1-371.1 of the Code of Virginia, this chapter, or permit.

B. The inspector or local government official shall be notified at least seven days in advance of the date any work is to be performed and when completed, in order that an inspection may be made.

C. No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a certified arborist, and tree workers shall be approved by the inspector or local government official, prior to issuance of a permit to perform work under this chapter. The certified arborist supervising the work shall remain on-site whenever work is underway.

All brush, wood, etc., shall be chipped and beneficially used or removed immediately and disposed of in accordance with the Solid Waste Management Regulations (~~9VAC20-80-10 et seq.~~) (9VAC20-81) of the Virginia Waste Management Board.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways, except where a local beautification project has allowed landscape plant material to be planted within a median area. Plant material in median areas may be relocated to other areas within the local beautification project limits in accordance with an approved landscape plan. All work performed on VDOT rights-of-way shall comply with the Virginia Work Area Protection Manual (part of 24VAC30-310-10 et seq.). Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to department or local government official directions and shall be completed to the satisfaction of the inspector or local government official, or his representative.

E. The department or local government official reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the department or local government official may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If

it is in the best interest of traffic safety, the department or local government official may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately have corrected any condition that may arise as a result of this work that the department or local government official deems hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit Manual (~~24VAC30-150-10 et seq.~~) Regulations (24VAC30-151).

G. Permittees and their agents to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board, local city or town councils, local boards of supervisors, and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others. All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the department or local government official by the permittee.

H. The permittee agrees that if the work authorized by this chapter including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the department or local government official, the department or local government official will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth or local government official the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain that will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the department or local government official.

J. Road drainage shall not be blocked. The pavement, shoulders, ditches, roadside and drainage facilities, shall be kept in an operable condition satisfactory to the department or local government official. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Virginia Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Regulations (~~4VAC50-30-10 et seq.~~).

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K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. The permittee shall notify and receive clearance from the utility owner or owners and comply with the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq. of the Code of Virginia) before proceeding with work in the vicinity of utilities.

L. Where landscape is disturbed on state rights-of-way or local street and roads not under the jurisdiction of the Commonwealth Transportation Commissioner in accordance with § 33.1-353 of the Code of Virginia, it shall be replaced with a minimum of two inches of topsoil and reseeded according to department specifications.

24VAC30-200-40. Listing of documents incorporated by reference.

Information pertaining to the availability and cost of any of these publications should be directed to the division indicated by in writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.

1. ~~24VAC30-150, Land Use Permit Manual (1983), Asset Management Division, 24VAC30-151, Land Use Permit Regulations (2010), VDOT~~
2. VDOT Road and Bridge Specifications (effective January 2002), ~~Scheduling and Contract Division, VDOT~~
3. 24VAC30-310-10, Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual), ~~Traffic Engineering Division, VDOT~~
4. 4VAC50-30, Virginia Erosion and Sediment Control Regulations, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, Va. VA 23219
5. ~~9VAC20-80~~ 9VAC20-81, Solid Waste Management Regulations, ~~Waste Division, Department of Environmental Quality, 629 E. Main St., Richmond, Va. 23240~~ VA 23219
6. American National Standards Institute (ANSI) Standard for Tree Care Operations, Tree, Shrub and Other Woody Plant Maintenance-Standard Practices - ANSI A300-1995 (effective June 1, 1995), Pruning, Trimming, Repairing, Maintaining, and Removing Trees, and Cutting Brush-Safety Requirements - ANSI Z133.1-1994 (effective August 1, 1994), American National Standards Institute, 11 West 42nd Street, New York, ~~New York~~ NY 10036
7. American National Standards Institute (ANSI) American Standard for Nursery Stock - ANSI Z60.1-1996 (effective November 6, 1996), American Association of Nurserymen, 1250 I Street, N.W., Suite 500, Washington, DC 20005

8. Tree Pruning Guidelines (effective 1995), International Society of Arboriculture, P.O. Box GG, Savoy, ~~Illinois~~ IL 61874

VA.R. Doc. No. R11-2161; Filed March 22, 2011, 9:42 a.m.

Final Regulation

Title of Regulation: 24VAC30-401. Change of Limited Access Control (amending 24VAC30-401-20).

Statutory Authority: §§ 33.1-12 and 33.1-58 of the Code of Virginia.

Effective Date: May 11, 2011.

Agency Contact: Richard R. Bennett, State Right of Way Director, Department of Transportation, 1401 East Broad St., Richmond, VA 23219, telephone (804) 786-2923, or email richard.bennett@vdot.virginia.gov.

Summary:

The amendments (i) replace references to the recently repealed Land Use Permit Manual (24VAC30-150) with references to the new Land Use Permit Regulations (24VAC30-151) and (ii) change the citation for the General Rules and Regulations of the Commonwealth Transportation Board from 24VAC30-20 to 24VAC30-21 to reflect the new replacement regulation.

24VAC30-401-20. Policy and conditions.

A. Any change in limited access that is not covered under the General Rules and Regulations of the Commonwealth Transportation Board (~~24VAC30-20-80~~) (24VAC30-21) as authorized by the CTB or commissioner in the department's Land Use Permit ~~Manual (24VAC30-150)~~ Regulations (24VAC30-151) is considered a change of limited access control.

B. Change of limited access control will be considered only in limited, special situations. The CTB will not consider a change in limited access control without a written determination from the chief engineer.

C. Any proposed change in limited access control shall, at a minimum, meet the following conditions:

1. Requests for limited access control changes shall be made in writing to the district administrator in charge of the construction district where the requested change in limited access control is proposed.
2. Requests must be accompanied by the following:
 - a. A resolution, letter of support, or formal request, or any combination of these, from the locality within which the highway is located where the change in limited access is proposed.

b. A global traffic analysis prepared by the requestor, which the department will review and approve prior to further action.

c. An environmental analysis of the proposed change in limited access provided by the requestor, which the department will review and approve prior to further action.

3. Prior to review by the department, requestors shall:

a. Pay for expenses associated with the department's posting of a Willingness for Public Comment notice to allow public input to be collected concerning the request prior to CTB action. If the requestor is a locality making a request for change in limited access control for public transportation purposes, the chief engineer may waive the requirement to pay for the posting.

b. Post a deposit sufficient to cover the estimated cost associated with considering the request, including the department's expenses in completing the required reviews, posting, approvals, and any other steps involved. The amount of the deposit will be determined by the estimated amount of research and engineering and the cost of the appraisal required to process the request prior to CTB approval. If the actual cost to consider the request exceeds the estimated cost, the requestor shall pay the department the difference. This sum is in addition to any monetary compensation required.

4. A determination by the chief engineer that the change will not adversely affect the safety or operation of the highway.

5. If the location of the request for limited access control change is in an area determined to be a nonattainment area for air quality, the district must verify that the proposed limited access change has been through an air quality conformity review.

D. If the proposed change in limited access does not meet the conditions set forth above, the chief engineer is authorized to deny the request. The chief engineer shall notify the requestor in writing of the denial and the right to a review by the CTB.

E. The chief engineer shall notify the CTB of all denials.

F. The requestor, within 30 days of the date of denial, and any CTB member may request the full CTB to review any denials for change of limited access.

G. Upon the date of CTB approval of the request, the requestor shall have 180 days to submit the monetary or other consideration, and to secure all necessary permits from the department. Failure to comply with these requirements within the specified period shall render the CTB approval void. The department will convey any necessary land rights as necessary to comply with the request.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Consent Order for Albemarle County Service Authority

An enforcement action has been proposed for the Albemarle County Service Authority for violations in Albemarle County. A proposed consent order describes a settlement to resolve unpermitted discharge violations from its collection system. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 11, 2011, to May 11, 2011.

Proposed Consent Order for the City of Charlottesville

An enforcement action has been proposed for the City of Charlottesville for violations in Albemarle County. A proposed consent order describes a settlement to resolve unpermitted discharge violations from its collection system. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 11, 2011, to May 11, 2011.

Proposed Consent Order for the Town of Elkton

An enforcement action has been proposed for the Town of Elkton for violations in Rockingham County. A proposed consent order describes a settlement to resolve permit effluent limitation violations at its sewage treatment plant. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 11, 2011, to May 21, 2011.

Proposed Consent Order for Rivanna Water and Sewer Authority

An enforcement action has been proposed for Rivanna Water and Sewer Authority for violations in Albemarle County. A proposed consent order describes a settlement to resolve unpermitted discharges and permit effluent limitation violations at its Moores Creek Regional sewage treatment

plant. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 11, 2011, to May 21, 2011.

Total Maximum Daily Load for Potomac River Tributaries

Announcement of a total maximum daily load (TMDL) study to restore water quality in the bacteria impaired waters of Sugarland Run, Mine Run, Pimmit Run, Powells Creek, Quantico Creek, South Fork Quantico Creek, North Branch Chopawamsic Creek, Aquia Creek, Austin Run, Accokeek Creek, Potomac Creek, Potomac Run, and an unnamed tributary to the Potomac River.

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) and the Virginia Department of Conservation and Recreation (DCR) announce three public meetings to introduce a series of total maximum daily load studies on the Potomac River tributaries to members of the community.

PUBLIC MEETINGS:

Wednesday, April 13, 2011 - 7 p.m. to 9 p.m.

Great Falls Library, Meeting Room

9830 Georgetown Pike, Great Falls, Virginia 22066

The Potomac River tributaries that will be addressed at this meeting include: Sugarland Run, Mine Run, and Pimmit Run.

Tuesday, April 19, 2011 - 7 p.m. to 9 p.m.

Stafford Administration Building Center, Board of Supervisors Chambers

1300 Courthouse Road, Stafford, Virginia 22554

The Potomac River tributaries that will be addressed at this meeting include: Aquia Creek, Austin Creek, Accokeek Creek, Potomac Creek, Potomac Run, and an unnamed tributary to the Potomac River.

Wednesday, April 20, 2011 - 7 p.m. to 9 p.m.

Dr. A.J. Ferlazzo Building, Auditorium

15941 Donald Curtis Drive, Woodbridge, Virginia 22191

The Potomac River tributaries that will be addressed at this meeting include: Powells Creek, Quantico Creek, South Fork Quantico Creek, and North Branch Chopawamsic Creek.

Meeting description: These are the first meetings to introduce these TMDL projects to the public. The purpose of these meetings is to gather information and discuss the studies with community members.

Description of study: Portions of the following streams have been identified as impaired on the Clean Water Act § 303(d) list for not supporting Virginia's water quality recreational use standard due to exceedances of the bacteria criterion:

General Notices/Errata

Waterbody Name	Watershed Location	Segment Size	Cause	Segment Description
Sugarland Run	Fairfax County Loudoun County Town of Herndon	0.95 miles	Escherichia coli	Segment begins at the confluence with Folly Lick Branch, at approximately rivermile 5.75, and continues downstream until the boundary of the PWS designation area, at rivermile 4.82.
Sugarland Run	Fairfax County Loudoun County Town of Herndon	4.77 miles	Escherichia coli	Segment begins at the boundary of the PWS designation area, at rivermile 4.82, and continues downstream until the confluence with the Potomac River.
Mine Run	Fairfax County	0.93 miles	Escherichia coli	Segment begins at the confluence with an unnamed tributary to Mine Run, approximately 0.5 rivermile upstream from River Bend Road, and continues downstream until the confluence with the Potomac River.
Pimmit Run	Arlington County Fairfax County	1.62 miles	Escherichia coli	Segment begins at the confluence with Little Pimmit Run, approximately 0.1 rivermile downstream from Route 695, and continues downstream until the confluence with the Potomac River.
Pimmit Run	Arlington County Fairfax County	2.46 miles	Escherichia coli	Segment begins at the Route 309 bridge crossing, at rivermile 4.16, and continues downstream until the confluence with Little Pimmit Run, approximately 0.1 rivermile downstream from Route 695.
Pimmit Run	Arlington County Fairfax County	3.29 miles	Escherichia coli	Segment begins at the headwaters of Pimmit Run, approximately 0.12 rivermile upstream from Route 7, and continues downstream until the Route 309 bridge crossing, at rivermile 4.16.

* Stream segments will be addressed at the April 13, 2011, meeting in Great Falls, Virginia.

Waterbody Name	Watershed Location	Segment Size	Cause	Segment Description
Aquia Creek	Fauquier County Stafford County	0.3638 mi2	Enterococcus	Segment extends from rivermile 4.28 to rivermile 3.28 in Aquia Creek encompassing a 0.5-mile radius around station 1aAUA003.71. Portion of CBP segment POTOH.
Austin Run	Fauquier County Stafford County	0.79 miles	Fecal Coliform	Segment begins at the confluence with an unnamed tributary to Austin Run (streamcode XGQ) and continues downstream until the confluence with Aquia Creek.
Accokeek Creek	Stafford County	4.21 miles	Escherichia coli	Segment begins at the confluence with an unnamed tributary to Accokeek Creek (rivermile 8.62), approximately 0.33 rivermile downstream from Route 1, and continues downstream until the end of the free-flowing waters.
Potomac Creek	Stafford County	2.18 miles	Escherichia coli	Segment begins at the railroad crossing at the west end of swamp, upstream from Route 608, and continues downstream until the east end of swamp.

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Potomac Run	Stafford County	6.13 miles	Escherichia coli	Segment begins at the headwaters of Potomac Run and continues downstream until the confluence with Long Branch.
Unnamed Tributary to the Potomac River	Stafford County	2.9 miles	Escherichia coli	Segment begins at the headwaters of the unnamed tributary and continues downstream until its confluence with the Potomac River.

* Stream segments will be addressed at the April 19, 2011, meeting in Stafford, Virginia.

Waterbody Name	Watershed Location	Segment Size	Cause	Segment Description
Powells Creek	Prince William County	4.62 miles	Escherichia coli	Segment begins approximately 0.2 rivermiles below Lake Montclair and continues downstream until the end of the free-flowing waters of Powells Creek.
Quantico Creek	Prince William County Town of Dumfries	1.45 miles	Escherichia coli	Segment begins at the confluence with South Fork Quantico Creek, approximately 0.75 rivermile upstream from I-95, and continues downstream until the start of the tidal waters of Quantico Bay.
South Fork Quantico Creek	Prince William County Town of Dumfries	4.63 miles	Escherichia coli	Segment begins at the headwaters of the South Fork Quantico Creek and continues downstream until the start of the impounded waters, adjacent to what is labeled as Mawavi Camp No 2 on the Joplin quad.
North Branch Chopawamsic Creek	Stafford County Prince William County	6.9 miles	Escherichia coli	Segment begins at the headwaters of North Branch Chopawamsic Creek and continues downstream until the confluence with Middle Branch.

* Stream segments will be addressed at the April 20, 2011, meeting in Woodbridge, Virginia.

Virginia agencies are working to identify the sources of bacteria contamination in these stream segments. During this study, DEQ will develop a total maximum daily load, or a TMDL, for each of the impaired stream segments. A TMDL is the total amount of a pollutant a water body can receive and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL allocated amount.

How to comment: The public comment period on materials presented at the public meetings will extend from April 13, 2011, to May 19, 2011. DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting, and be received by DEQ during the comment period. Please send all comments to the contact listed below.

Contact for additional information: Jennifer Carlson, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3859, or email jennifer.carlson@deq.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on March 15, 2011. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

Director's Order Number Seventeen (11)

Virginia Lottery's "Nascar® Sweepstakes" Final Rules for Game Operation (effective March 13, 2011)

Director's Order Number Nineteen (11)

Virginia's Instant Game Lottery 1224; "Virginia's Riches" Final Rules for Game Operation (effective March 14, 2011)

Director's Order Number Twenty (11)

Virginia's Instant Game Lottery 1240; "Blackjack" Final Rules for Game Operation (effective March 13, 2011)

Director's Order Number Twenty-One (11)

Virginia's Instant Game Lottery 1262; "Million Dollar Cash Spectacular" Final Rules for Game Operation (effective March 14, 2011)

Director's Order Number Twenty-Three (11)

Virginia Lottery's "Foxfield and Gold Cup Race Experience Facebook Sweepstakes" Final Rules for Game Operation (effective March 16, 2011)

Director's Order Number Twenty-Four (11)

Virginia Lottery's "Winner's Circle Doubler Sweepstakes" Final Rules for Game Operation (effective March 18, 2011)

STATE BOARD OF SOCIAL SERVICES

Notice of Periodic Review

Pursuant to Executive Order Number 14 (2010), the Department of Social Services is currently reviewing **22VAC40-680, Virginia Energy Assistance Program - Low Income Home Energy Assistance Program (LIHEAP)**, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number 14 (2010) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need for the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until May 2, 2011, in care of Phyl Parrish, Manager, Legislation, Regulation and Guidance, Division of Family Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7926, FAX (804) 726-7895, or email phyl.parrish@dss.virginia.gov.

Notice of Periodic Review

Pursuant to Executive Order Number 14 (2010), the Department of Social Services is currently reviewing **22VAC40-780, Elimination of Financial Eligibility Criteria for Direct Social Services**, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number 14 (2010) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need for the regulation, less burdensome and intrusive alternatives to the regulation, specific and

measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until May 2, 2011, in care of Phyl Parrish, Manager, Legislation, Regulation and Guidance, Division of Family Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7926, FAX (804) 726-7895, or email phyl.parrish@dss.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Consent Order for Northrop Grumman Systems Corporation

An enforcement action has been proposed for Northrop Grumman Systems Corporation for violations of State Water Control Law and regulations, resulting from an oil discharge to state waters and land at the Northrop Grumman facility located at 12900 Federal Systems Park Drive in Fairfax Virginia. The consent order describes a settlement to resolve these violations. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Stephanie Bellotti will accept comments by email at stephanie.bellotti@deq.virginia.gov, FAX (703) 583-3821, or postal mail Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from April 12, 2011, through May 12, 2011.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/cumultab.htm>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the *Virginia Register of Regulations*. The Office of the Virginia Register of Regulations implemented a

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web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions, and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track, and emergency regulatory packages.