EFFECTIVE DATE

July 1, 2019

PURPOSE/NEED/SCOPE/REQUIREMENTS

- The Manual of Instructions, Chapter 3, Section 303.02 is revised on the effective date shown above to require the use of a template, “Permission-to-Enter” and, "Intent-to-Enter” Notification Letters for all Materials Division/Section activities that require access to private property. These letters shall be printed on VDOT letterhead. The revisions also require specific dates be provided to the landowner(s).

- Effective July 1, 2019, Section 33.2-1011 of the Code of Virginia requires VDOT to request permission to enter property from property owners not less than 15 days prior to entering the property. When responsive property owners confirm dates for property entry, no further contact is necessary. However, when property owners are either nonresponsive or deny permission, those property owners shall be contacted a second time with an “Intent to Enter” letter sent not less than 15 days prior to the date of intended entry. Property entry includes access to properties to perform project-related activities. If additional time is required beyond the stated period identified in the letter, the process must be repeated.
• The requirements contained in this MD apply to all Materials Division or Materials Section activities performed on or accessed through property outside our right of way. Such activities include district and central office Materials staff and work assigned to consultants or contractors. The requirements of this MD exclude railroad notifications, which are addressed elsewhere.

PROCEDURES

• The complete and revised text for Section 302.03 Landowner Notification is shown in shading below.

<BEGIN NEW REVISED SECTION 302.03>

302.03 LANDOWNER NOTIFICATION

No investigation shall be undertaken on any property that is not within VDOT’s right-of-way without first notifying the landowner in accordance with 33.2-1011 of the Code of Virginia. This restriction includes crossing of property by personnel and equipment to gain access to another property where an investigation will be conducted. Property belonging to other government bodies, agencies or institutions, and highway property that is not part of the public road system, is also included in this restriction. Advanced notification prior to entry onto such property is required.

The right-of-entry notification process should begin at least 35 days prior to the estimated date for property entry. The 35 day timeframe allows for additional outreach and coordination with property owners that are either nonresponsive or deny permission to enter the property, as necessary.

The first notification, entitled “Permission to Enter,” shall follow the provided template and contain the following:

a. Completed, “Permission to Enter” template letter on VDOT letterhead;
b. Attachment 1 for the template letter: Entity List with the below project-specific information:
   1. specific dates of entry;
   2. name of the entities entering the property;
   3. number of persons per entity for whom permission is sought;
   4. purpose for which entry is made; and
   5. fieldwork to be performed by each entity; and
c. Prepaid postcard with project information and mailing label. The Permission to Enter template directs property owners to return the prepaid postcard as an indication of their approval for VDOT to enter the property.
As illustrated in Appendix A, the complete Permission to Enter notification (first notification) shall be sent any one of the following three ways:

(i) Certified mail with return receipt;
(ii) Overnight courier; or
(iii) In person with proof of delivery.

When property owners provide access approval, the project is then clear to proceed no less than 15 days after the postmarked date on the Permission to enter notification or as identified in the notification.

If the property owner fails to respond to the “Permission to Enter” notification within 15 days or denies access, a second notification, entitled “Intent to Enter” shall be sent. The second notification, entitled “Notice of Intent,” shall follow the provided template and will signify the intent to enter the property no less than 15 days after the postmarked date on the, "Intent to Enter" letter and contain the following:

a. A copy of the original and complete Permission to Enter notification;

b. Attachment 1: Entity List with the below Project-specific information:
   1. specific dates of entry;
   2. name of the entities entering the property;
   3. number of persons per entity for whom permission is sought;
   4. purpose for which entry is made; and
   5. fieldwork to be performed by each entity;

As illustrated in Appendix A, the “Intent to Enter” notification (second notification) shall be delivered with two different delivery methods (no less than 15 days prior to the date of intended entry or date specified in notification) as identified below:

- Certified mail; **AND**
- Posted on the property’s main entrance, overnight courier, **OR** hand delivery with proof of receipt.

Where possible, the number of notifications to each property owner (e.g., Environmental, Materials, Location and Design, etc.) should be limited and combined. Dates of fieldwork in division notifications should overlap when possible and provide for the time necessary to complete fieldwork. Overlapping activities shall identify each of the entities conducting activities on the property, the point of contact for each activity and an estimate of the number of persons for each entity. When necessary, use additional explanations in the Attachment 1: Entity List (as required in the notification letters) to clarify the sequencing of listed studies. Refer to the example below.
## Attachment 1: Entity List

<table>
<thead>
<tr>
<th>Entity Name</th>
<th>Anticipated Number of Employees</th>
<th>Entity Activity</th>
<th>Date Range Activity will Occur</th>
</tr>
</thead>
<tbody>
<tr>
<td>VDOT-Survey/Environmental</td>
<td>5</td>
<td>Please be advised that VDOT employees or consultants may need to enter your property to perform some or all of the following investigative tasks; these activities may include, but are not limited to: setting targets for photogrammetry, topographic &amp; utility features and property boundaries, identification of wetlands, stream studies, environmental drilling (to collect soil and groundwater samples for analysis), monitoring of existing noise levels, and other transportation design-related evaluations and environmental assessments. These activities typically include taking photographs and collecting environmental samples. Should soil samples or other limited removal of soil be necessary, VDOT will return any disturbed area substantially to its previous condition.</td>
<td>July 1 – 13, 2019</td>
</tr>
<tr>
<td>Reed Adams</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>804-729-6339</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><a href="mailto:reed.adams@vdot.virginia.gov">reed.adams@vdot.virginia.gov</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VDOT-Materials</td>
<td>2</td>
<td>VDOT Materials will be on site to observe the performance of engineering consultants and drilling contractors during the execution of geotechnical subsurface exploration.</td>
<td>July 1 – 15 2019, August 15 – 20, 2019 (for return inspections)</td>
</tr>
<tr>
<td>Chaz Weaver, P.E.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(540) 746-8801</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><a href="mailto:chaz.weaver@vdot.virginia.gov">chaz.weaver@vdot.virginia.gov</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schnabel Engineering</td>
<td>2</td>
<td>The activities involved in the upcoming geotechnical subsurface exploration include, but are not limited to sample collection and testing of soil and rock. The purpose of the exploration are to identify the soil, rock and groundwater conditions to enable sound engineering recommendations. In general the test locations have been chosen to be accessible with drilling or other specialty equipment (typically mounted on a separate tired or tracked vehicle). When drilling and sampling activities are complete, the holes will be backfilled. The surface will be substantially returned to the same condition it was in before work begun. Approximately thirty days after completion of the</td>
<td>July 1 – 15 2019, August 15 – 20, 2019 (for return inspections)</td>
</tr>
<tr>
<td>Chaz Weaver, P.E.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(540) 746-8801</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><a href="mailto:chaz.weaver@vdot.virginia.gov">chaz.weaver@vdot.virginia.gov</a></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DMY Engineering</td>
<td>Serving as the drilling contractor, DMY will provide the equipment to allow the taking of samples from the ground.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chaz Weaver, P.E.</td>
<td>July 1 – 15 2019,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(540) 746-8801</td>
<td>August 15 – 20, 2019 (for return inspections)</td>
<td></td>
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<td><a href="mailto:chaz.weaver@vdot.virginia.gov">chaz.weaver@vdot.virginia.gov</a></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The names identified on Attachment 1 shall serve as the points of contact with the project owner for the activities covered. The point of contact does not have to work for the entity (i.e. the USACE point of contact should be the VDOT District Environmental Manager (DEM) (or designee) or the Central Office Environmental Program Managers (or designee) that is familiar with the project and can discuss the project with the property owner and not a representative for USACE).

If additional time is required beyond the time frame identified in the letter, the process must be repeated.

VDOT District Materials Engineer (DME, or designee) shall track property owner responses, ensuring that follow up with property owners who are either nonresponsive or have denied permission is done after the 15-day timeframe has lapsed. All property owner's responses shall be tracked during the landowner notification process.

VDOT District Materials Engineer, their designee and/or our consultants shall use the templates referenced above. These resources are available in ProjectWise or be provided to our consultants in advance of their work. Additionally, VDOT will house survey records of property ownership in ProjectWise. All users of landowner data in ProjectWise shall confirm that ownership records remain unchanged prior to mailings. Users shall not modify the original landowner records in ProjectWise. Rather, make a copy of the landowner records for their use (i.e., a separate worksheet tab for that particular division).

<END OF SECTION 302.03>

COPY DISTRIBUTION:

Deputy Chief Engineer  VDOT Resident Engineers
Division Administrators  Federal Highway Administration
District AdministratorsVirginia Ready Mix Association
District Location & Design Engineers Precast Concrete Association of Virginia
District Construction Engineers Virginia Transportation Construction Alliance
District Maintenance Engineers
District Bridge Engineers
District Traffic Engineers

Virginia Asphalt Association
American Concrete Paving Association Mid-Atlantic Chapter
Old Dominion Highway Contractors Association