

~~DISPOSAL~~ CHANGE OF LIMITED ACCESS CONTROL

CHAPTER 400.

~~24 VAC 30-400-10. Introduction.~~

~~The Commonwealth Transportation Board may designate all or any part of any existing or new highway as limited access. Such a designation requires the board to extinguish all easements of access, light, or air. The commissioner must pay damages, if any, to owners of properties abutting the existing or new highway for the extinguishment of these rights. This chapter establishes the rules pertaining to limited access control.~~

~~24 VAC 30-400-20. Policy.~~

~~Any change or break of the access control line for a purpose other than that related to highways is considered an abandonment of access control. Abandonment of access control will be considered only in limited, special situations; and only when such abandonment will not adversely affect the safety or operation of the facility.~~

~~24 VAC 30-400-30. Monetary compensation.~~

~~A. Monetary compensation or other valuable consideration shall be made for abandonment to a private party or a public agency for non-public use. Compensation due the department for abandonment of access control shall be determined by the appraisal process.~~

~~B. The value of these rights shall be determined by using the before and after evaluation. The costs of providing any safety or operations improvements necessary for the safety of the traveling public will be borne by the party or parties granted a change in access control in addition to the compensation determined by the appraisal process. The Director of Right of Way and Utilities shall approve any such compensation.~~

~~24 VAC 30-400-40. Federal Highway Administration approval.~~

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~~If federal funds were used in right of way acquisition, or if there is a significant change in the function or operation of the existing highway facility, and federal funds were used in construction, the Federal Highway Administration shall approve the change or break in access.~~

24 VAC 30-400-10. Authority.

A. Pursuant to the authority granted by § 33.1-58 of the Code of Virginia, the Commonwealth Transportation Board (CTB) may designate all or any part of any existing or new highway as limited access, as the term “limited access highway” is defined in § 33.1-57 of the Code of Virginia, the designation of which requires the CTB to extinguish all easements of access, light or air. Actions regarding limited access control, including changes in control, require CTB approval. These changes typically include shifting, moving, or breaking control, or any combination of these, after a project is completed, finalized and serving in its intended capacity. The commissioner shall pay damages, if any, to owners of properties abutting the existing or new highway for the extinguishment of these rights. This chapter establishes the rules pertaining to change of limited access control.

B. The commissioner or his designee may issue additional instructions to implement this chapter.

24 VAC 30-400-20. Policy and Conditions.

A. Any change in limited access which is not covered under the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20-80) as authorized by the CTB or commissioner in the Department’s Land Use Permit Manual (24 VAC 30-150) is considered a change of limited access control.

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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.

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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 non-attainment 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

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approval void. The department will convey any necessary land rights as necessary to comply with the request.

24 VAC 30-400-30. Monetary compensation.

A. Monetary compensation or other valuable consideration shall be required for any change in limited access control. Compensation due the department for such change of limited access control shall be determined by an appraisal process approved by the commissioner or his designee. The compensation shall be determined by using the before and after evaluation to determine the enhancement, if any, to adjoining property or properties as a result of CTB change of access control. This compensation determination shall be in an amount determined by the commissioner or his designee.

B. The costs of providing any safety or operational improvements necessary for the safety of the traveling public will be borne by the party or parties granted a change in limited access control in addition to the compensation determined by the appraisal process. The commissioner or his designee shall approve any such compensation or other consideration, when all reviews and preliminary approvals are completed, and prior to CTB consideration. The Chief Engineer shall approve the necessary safety or operational improvements.

24 VAC 30-400-40. Federal Highway Administration approval.

If federal funds were used in right of way acquisition on Interstate System projects, or if there is a significant change in the function or operation of the existing Interstate System highway facility, and federal funds were used in construction, the Federal Highway Administration shall approve the change or break in access. This approval is required prior to any consideration by the CTB.

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24 VAC 30-400-50. Availability of regulations referenced.

Regulations referenced in this chapter may be obtained by writing to the Chief Engineer at 1401

E. Broad St., Richmond, Virginia 23219, or from the following Virginia Administrative Code

(VAC) website: <http://leg1.state.va.us/000/srr.htm>.

CERTIFICATION

I certify that this regulation is full, true, and correctly dated.

Acting Commonwealth Transportation Commissioner
Gregory A. Whirley

Date