



Virginia  
Regulatory  
Town Hall

## Periodic Review and Retention of Existing Regulations Agency Background Document

<b>Agency Name:</b>	Virginia Department of Transportation (Commonwealth Transportation Board)
<b>VAC Chapter Number:</b>	24 VAC 30-400-10 et seq.
<b>Regulation Title:</b>	Disposal of Limited Access Control
<b>Action Title:</b>	Review and Retain
<b>Date:</b>	January 11, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

The Commonwealth Transportation Board may designate all or part of any existing or new highway as limited access; under this designation, all easements of access, light, or air must be extinguished. This policy establishes the rules the Commonwealth Transportation Board follows pertaining to limited access control, including a statement of policy, how monetary compensation to VDOT is determined, and the role of the Federal Highway Administration (FHWA) in approving such actions.

The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1 B (4).

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

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§ 33.1-12 of the *Code of Virginia* establishes the general duties of the Commonwealth Transportation Board (CTB); it has the authority to make regulations governing the protection of and the use of the system of state highways. In addition, § 33.1-58 gives the CTB specific authority at its discretion to plan, designate, construct, reconstruct, improve, maintain, discontinue, abandon and regulate the use of limited access highways.

This regulation does not exceed the minimum requirements of the state mandate.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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VDOT received no public comment during the Notice of Periodic Review, so no response was prepared. No advisory group was formed to assist in the periodic review.

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

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This regulation's goal is:

- To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.

This regulation has no effect on the family or family stability.

The regulation was revised from its original 1990 form by a resolution of the CTB on September 18, 1997. At that time, the CTB had noted instances in which minimal or no compensation had been paid to VDOT for the abandonment of these limited access rights after the cost of providing safety and operation improvements (e.g., traffic signals, deceleration lanes, fencing adjustments) had been taken into consideration. The change eliminated the ability of the person or persons receiving a break in limited access control to deduct the cost of safety and operation improvements from the compensation due VDOT.

As currently written, the policy permits VDOT to receive full compensation for enhancements to abutting property as a direct result of relinquishment of access control, by making the requestor bear the costs of providing such safety and operation improvements. Therefore, VDOT believes that this regulation serves an essential purpose – to permit VDOT to receive more equitable compensation for its relinquishment of limited access rights. As a result, more funds are available for use in its transportation programs.

VDOT believes that the lack of public comment received concerning the regulation indicates general satisfaction with the format of the regulation and its clarity and ease of comprehension.

**Alternatives**

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

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This regulation appears in VDOT’s Department Policy Memoranda Manual as an official statement of CTB policy, under the authority granted the CTB by statute. By having a specific regulation outlining the policy, how monetary compensation is to be determined, and the role of the FHWA in the approval process, those affected by the abandonments of limited access can unequivocally identify what their responsibilities are in providing safety and operation improvements. Therefore, VDOT believes it is the least burdensome alternative to achieve the purpose of the regulation.

**Recommendation**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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VDOT recommends that this regulation be retained without change.

**Family Impact Statement**

*Please provide an analysis of the regulation’s impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children*

*and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.*

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This regulation has no effect on the family or family stability, nor does it affect any of the other factors listed above.