

South Carolina Department of Transportation

Engineering Directive

Directive Number:	ED-41	Effective:	November 17, 2015
Subject:	Removal of Roads or Sections of Roads from the State Highway System		
References:	S.C. Code of Laws, Sections 57-5-10, 57-5-80, 57-5-120, 57-5-600, and 57-9-10, et seq.		
Purpose:	Provide Procedural Guidance in Performing Actions to Remove State Roads from the Highway System		

This Directive Applies to: All Employees

At the June 21, 2007, meeting the South Carolina Department of Transportation (SCDOT) Commission recognized the need to reduce the size of the secondary road system and implemented a new policy to begin this process. State law allows the removal of roads from the state highway system under specific circumstances. Removal of a road from the state highway system must be authorized by at least one of the statutes listed below and must follow the processes set forth herein.

Authorizing Statutes:

Transfer of Roads from Secondary System to another Entity or Person - S.C. Code of Laws, Section 57-5-80

SCDOT may transfer from the state highway secondary system any road under its jurisdiction determined by SCDOT to be of low traffic importance to one of the parties indicated below, if mutual consent is reached between SCDOT and the transferee:

- (a) a county or municipality,
- (b) a school,
- (c) a governmental agency,
- (d) a nongovernmental entity, or
- (e) a person.

In all cases, the county or municipality shall have right of first refusal to accept roads into their maintenance responsibility when roads are considered for transfer from the state highway system to a nongovernmental entity or person. If a road or a portion of a road is considered for transfer from the state highway secondary system to a nongovernmental entity or person, all persons, businesses, and entities having property interests located on that section of road must be in agreement with the transfer. Maintenance responsibility for the removed road will transfer to the transferee upon notice from SCDOT of the official action removing the road from the state highway system. Notification of the transfer must be given to the county legislative delegation.

Abandonment of Section of Relocated Highway - S.C. Code of Laws, Section 57-5-120

SCDOT may abandon any section of highway that has been relocated. At its discretion, SCDOT may choose to retain the old section when it serves as a needed connection to the new section or when it serves as a proper part of the state highway system. All other sections should be abandoned. Every section abandoned due to relocation reverts to the local government having jurisdiction (city or county) or is abandoned as a public way.

Abandonment of Right-of-Way - S.C. Code of Laws, Section 57-5-600

Right-of-way previously acquired by SCDOT may be removed from the state highway system when it is determined that the right-of-way is not required for either right-of-way or departmental purposes. Removal of right of way must be primarily for public benefit, not private benefit. SCDOT's Rights of Way Office must determine what, if any, charge shall be made for the abandonment and/or transfer.

Court Ordered Closure - S.C. Code of Laws, Section 57-9-10, et seq.

Any interested person, the State, or any of its political subdivisions or agencies may petition a court of competent jurisdiction to abandon or close any street, road, or highway whether opened or not. Certain notice procedures must be followed as set forth in the statute. If the court shall determine that it is in the best interest of all concerned that such street, road, or highway be abandoned or closed, the court shall then determine in whom the title shall be vested and issue an appropriate order.

Removal Procedures:

Court Ordered Closures - All petitions for court ordered closures shall follow the following procedures:

1. The Legal Office shall send a copy of the initial petition for closure to the Director of Planning, Director of Rights of Way, and the appropriate district engineering administrator.
2. Each office should then determine if the petition covers a state system road. Once determined, each office must decide if they have objections to closure and notify the Legal Office within the time frame specified. Some examples of objections include sight distance concerns due to loss of right-of-way and the closure resulting in other state maintained roads becoming disconnected from the state system. The Legal Office will then convey any concerns to the courts.
3. If the court approves the closure, the final order of closure should be forwarded to the Director of Planning.
4. If the road was a state maintained road, the Director of Planning shall notify the SCDOT Commission.

Upon approval of the closure by the Commission (if state maintained), the following actions shall be taken:

1. The Director of Planning shall make the necessary adjustments in SCDOT's official mileage records, including those records necessary for enforcement of the secondary road mileage limitation (state and non-state maintained roads).
2. The Director of Planning shall notify the district engineering administrators of all actions taken by the Commission (state maintained roads only).
3. Based on the Commission minutes or a copy of Commission action available online, the district engineering administrator shall remove all SCDOT signs designating a road or route number (S-marker) from the section of road closed.

Other Removals:

All other requests for removal of a road or a portion of a road from the state highway system shall follow the procedures outlined below:

1. The Director of Traffic Engineering, Director of Construction, Director of Maintenance, Director of Planning, Director of Preconstruction, or a district engineering administrator may make a request for removal. A request for removal may also be initiated by the local entity (county, city, or school district) having jurisdiction or by other government agencies, a nongovernmental entity, or individuals with property interest along the section of roadway. Requests for removal must be submitted using the "Request for Removal from State Highway System" electronic form (Request for Removal from Highway System) located on SCDOT's Intranet as well as in Appendix A of this directive. A PDF fillable form is also available from the Director of Planning.
2. The SCDOT office initiating the request for removal must work with the Rights of Way Office to determine if the checkbox in the "Acceptance of Maintenance Responsibility by Other Entity" should be checked Yes or No. This will primarily depend on how the road was initially built and whether the right-of-way for the section proposed to be removed could generate revenue for SCDOT.

If the person or entity requesting to assume maintenance responsibility is not a governmental agency:

1. The SCDOT department initiating the request should confirm the requestor's identity by checking their state issued driver's license or identification card. If the requestor is an entity, not an individual, confirm identity by some other form of identification.
2. The requestor should include a letter from the county or municipality stating that the county or municipality refuses to accept maintenance of the described road. If the person or entity cannot obtain such letter, the SCDOT department initiating the request should contact the county or municipality only after the person or entity has provided proof they have tried to contact the local government. A sample form letter that should be used when contacting the local government is provided in Appendix B of this directive.

3. The requestor must obtain a statement from all persons, businesses, and entities having property interests on the road that they are in agreement with the transfer and provide adequate documentation that these are the only property owners with interests in the road. A sample affidavit documenting property owners is provided in Appendix C of this directive.
4. All requests for removal forms must be forwarded to the Director of Planning for appropriate action. The Director of Planning will maintain records of each removal request with supporting documentation and record the action taken on each request. The Director of Planning shall review the request for accuracy of description, location, and mileage, and shall verify the requested removal is in compliance with one of the statutes authorizing removal listed above. The Director of Planning shall also forward the request to the appropriate district engineering administrator for completion and concurrence as necessary. If a "Request for Removal from State Highway System" form or letter accepting maintenance responsibility is not attached to the request, the Director of Planning shall request the district engineering administrator to secure a completed form or letter.
5. Upon verification of the request for accuracy, compliance, and appropriate signatures, the Director of Planning shall forward the request to the Deputy Secretary for Intermodal Planning in the form of a recommendation to the Commission. If the road to be removed intersects a state maintained road it is important to include a plan sheet showing what right-of-way needs to be retained. Each recommendation for removal shall also include the person or entity requesting the removal (i.e., SCDOT, county, city, school district, government agency, private company, or individual), a description of the portion of road to be removed, and the statutory authority for removal along with the information required below:
 - a. Abandonment of Section of Relocated Highway
 - i. If the section was maintained by easement only - a copy of the letter or email notifying the local government of the abandonment and a copy of any response received.
 - ii. If SCDOT owns fee simple interest in the section to be abandoned – a "Request for Removal from State Highway System" form (preferred), or a statement of acceptance of maintenance responsibility by letter from the local government, or a request for quitclaim deed, or a court ordered closure action.
 - b. Transfer from Secondary Road System to another Person or Entity
 - i. "Request for Removal from State Highway System" form signed by the party to whom the road is requested to be transferred.
 - ii. Letter of right of first refusal from the county or municipality, if appropriate.
 - iii. If the requestor is a non-governmental entity or person, a statement that all persons and businesses on the road are in agreement with the transfer and adequate documentation that these are the only property owners with interests in the road. A sample affidavit documenting property owners is provided in Appendix C of this directive.

- c. Abandonment of Right of Way - "Request for Removal from State Highway System" form (preferred), or a statement of acceptance of maintenance responsibility by letter from the local government or entity (county, city, school district, or government agency).

Upon approval of the removal by the Commission, the following actions shall be taken:

1. The Director of Planning shall make the necessary adjustments in SCDOT's official mileage records, including those records necessary for enforcement of the secondary road mileage limitation.
2. The Director of Planning shall notify the district engineering administrators and Chief of Staff of all actions taken by the Commission.
3. The district engineering administrator shall ensure all SCDOT signs designating a road or route number (S-marker) are removed from the section of road transferred to a local government or agency.
4. If the entire road is to be abandoned, the district engineering administrator shall ensure all SCDOT signs are removed.
5. The district engineering administrator shall notify the requestor, in writing, of the action taken by the Commission and send an electronic copy to the Director of Planning.
6. The Chief of Staff shall notify the appropriate county legislative delegations of the actions taken by the Commission.

Based on the Commission minutes or a copy of Commission action available online, the Director of Rights of Way, if appropriate, shall prepare and forward a quitclaim deed for the removed road to the party to whom the road is being transferred. The quitclaim deed shall, in addition to transferring the right of way, specifically transfer any bridge within the limits of the removed road, and transfer all future maintenance responsibility.

Submitted and Recommended by: Mark Pleasant
Director of Planning

Approved: Ron K. Patton
Deputy Secretary for Intermodal Planning

Approved: Christy A. Hall
Deputy Secretary for Engineering

Lead: Director of Planning

History: Issued on September 15, 2008
First Revision on April 13, 2015
Second Revision on November 17, 2015

APPENDIX A
FOR ENGINEERING DIRECTIVE 41

**REQUEST FOR REMOVAL FROM
STATE HIGHWAY SYSTEM**

(REVISED 09/2015)

DESCRIPTION OF SECTION OF ROAD TO BE REMOVED

COUNTY: _____ ROAD NUMBER: _____ ROAD NAME: _____

LENGTH TO BE REMOVED: _____ MILES

BEGINNING POINT: _____ ENDING POINT: _____

DESCRIPTION: (PLEASE ATTACH LOCATION MAP)

ACCEPTANCE OF MAINTENANCE RESPONSIBILITY BY OTHER ENTITY OR PERSON

IT IS REQUESTED THAT THE ABOVE DESCRIBED ROAD BE REMOVED FROM THE STATE HIGHWAY SYSTEM. OWNERSHIP AND MAINTENANCE OF THIS ROAD WILL BECOME THE RESPONSIBILITY OF THE ENTITY LISTED BELOW. **IF THIS ENTITY IS NOT A GOVERNMENTAL ENTITY, A LETTER FROM THE COUNTY OR MUNICIPALITY STATING THAT THEY REFUSE TO ACCEPT MAINTENANCE OF THE DESCRIBED ROAD SHOULD BE INCLUDED WITH THIS FORM.**

YES NO IF YES IS CHECKED AND THE ENTITY OR PERSON BELOW CEASES TO UTILIZE THIS PROPERTY FOR PUBLIC PURPOSES, THEN EITHER THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION MUST BE COMPENSATED FAIR MARKET VALUE BY THE ENTITY OR PERSON OR THE PROPERTY WILL REVERT TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, WHO WILL HAVE THE RIGHT TO RE-ENTER AND TAKE POSSESSION OF THE PROPERTY FREE OF ALL RESTRICTIONS AND RESTRAINTS.

NAME / ENTITY: _____
PLEASE TYPE OR PRINT

TITLE: _____
PLEASE TYPE OR PRINT

SIGNED: _____ DATE: _____

NOTE TO DISTRICT ENGINEERING ADMINISTRATOR:

THIS COMPLETED FORM AND MAP SHOULD BE FORWARDED TO:

SCDOT DIRECTOR OF PLANNING
955 PARK STREET - ROOM 515, P.O. BOX 191
COLUMBIA, S.C. 29202

**BASIS FOR REMOVAL
(TO BE COMPLETED BY SCDOT)**

CHECK ONE OF THE (3) THREE OPTIONS BELOW AND COMPLETE:

1. ABANDONMENT OF SECTION OF RELOCATED HIGHWAY

2. DELETION AND REMOVAL OF ROADS FROM THE SECONDARY SYSTEM (SWAP MILES ONLY)

ROADS TO BE ADDED IN SWAP OF MILES:

<u>ROADS NUMBER</u>	<u>ROAD MILEAGE</u>	<u>AVERAGE DAILY TRAFFIC (ADT)</u>	<u>NUMBER OF LANES</u>	<u>TRAFFIC IMPORTANCE</u>
_____	(_____)	X _____	/ _____	= _____
_____	(_____)	X _____	/ _____	= _____

ROADS TO BE DELETED IN SWAP OF MILES:

<u>ROADS NUMBER</u>	<u>ROAD MILEAGE</u>	<u>AVERAGE DAILY TRAFFIC (ADT)</u>	<u>NUMBER OF LANES</u>	<u>TRAFFIC IMPORTANCE</u>
_____	(_____)	X _____	/ _____	= _____
_____	(_____)	X _____	/ _____	= _____

NOTE: ROADS TO BE ADDED MUST BE OF HIGHER TRAFFIC IMPORTANCE THAN ROADS TO BE DELETED AS DETERMINED BY THE CALCULATIONS ABOVE.

3. DELETION AND REMOVAL OF ROADS FROM THE SECONDARY SYSTEM (NO SWAP MILES)

Or

ABANDONMENT OF RIGHT-OF-WAY - (REMOVAL OF ROADS FROM STATE HWY. SYSTEM ONLY)

DETERMINATION OF RIGHT-OF-WAY NEED (CHECK APPROPRIATE BOX(ES) BELOW)

YES NO

- PROPERTY IS REQUIRED FOR SCDOT RIGHT-OF-WAY ¹
- PROPERTY IS REQUIRED FOR DEPARTMENT PURPOSES ¹
- ABANDONMENT IS IN THE INTEREST OF THE PUBLIC AND SCDOT
- ABANDONMENT ADVERSELY AFFECTS THE INDIVIDUAL RIGHTS OF OTHERS

THE RIGHT OF WAY LIMITS RETAINED AT THE INTERSECTING ROADS WILL BE ESTABLISHED AS FOLLOWS:

ADDITIONAL COMMENTS: _____

¹ A COPY OF THE PLAN SHEET WITH THE NEW RIGHT OF WAY LIMITS MUST BE INCLUDED.

REQUEST SUBMITTED BY: _____ DATE: _____

CONCURRENCE BY: _____ DATE: _____

FOR PRIMARY ROUTES ONLY:

APPROVAL BY: _____ DATE: _____

DIRECTOR OF PLANNING

APPENDIX B
FOR ENGINEERING DIRECTIVE 41

August 20, 2013

Mr. John Doe
City of Greenville
PO Box 1234
Greenville, SC 29292

RE: Request of Removal of S-23-123

To Whom It May Concern:

My office has been approached by Mr. John Smith requesting the South Carolina Department of Transportation (SCDOT) transfer ownership and maintenance responsibility of S-23-123(ABC Road) from Jones Avenue to Good Street to Mr. Smith. Our review of this road indicated it is of low traffic importance, and we have agreed to this transfer.

Based on this request, I am writing to inform you that the City of Greenville has the right of first refusal of the above road according to the law (Section 57-5-80). As such, we are requesting a written response from the City within 30 days from the date of this letter if it desires to exercise the first right of refusal. If we do not receive a reply within this timeframe, we will consider this as a refusal to accept maintenance of the roadway, and SCDOT will proceed to transfer ownership and maintenance to Mr. Smith as requested.

If you have any questions, please call at XXX-XXX-XXXX or email me at XXXX@scdot.org.

Sincerely,

APPENDIX C
FOR ENGINEERING DIRECTIVE 41

State of South Carolina)
)
County of _____)

AFFIDAVIT

Personally appeared before me the undersigned who being duly sworn, states that _____

_____ is (are) the sole owner(s) of that certain parcel
(Name of Property Owner)

known as _____
(TMS No. or Street Address)

abutting Road _____ (_____) between _____ and
(No. of Road to be Removed) (Name of Road to be Removed) (Beginning Point Road)

_____ in _____ County.
(Ending Point Road)

(Owner)

(Owner)

SWORN TO BEFORE ME this _____ day of

_____, 20____.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

State of South Carolina)
)
County of Richland)

AFFIDAVIT

Personally appeared before me the undersigned who being duly sworn, states that John A. Doe and Jane B. Doe is (are) the sole owner(s) of that certain parcel known as Road S-111 (222 Main Street) abutting Road S-111 between Road S-33 (Maple Drive) and Road S-44 (Elm Street) in Richland County.

(Owner Signature) John A. Doe

(Owner Signature) Jane B. Doe

SWORN TO BEFORE ME this _____ day of _____, 20____.

NOTARY PUBLIC FOR SOUTH CAROLNA
My Commission Expires: _____