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MEMORANDUM

TO: Jo Anne P. Maxwell
Director, Governance and Legislative Affairs Division

FROM: Julie M. Whitlock
Senior Assistant Attorney General/Section Chief

DATE: August 23, 2021

SUBJECT: Repeal of the Department of Transportation Regulations on Roads in the Grounds of State Institutions, 24VAC30-490

At your request, I have reviewed the Department's proposed repeal of the regulations on Roads in the Grounds of State Institutions, 24VAC30-490, made after a periodic review pursuant to § 2.2-4007.1 of the *Code of Virginia* and Executive Order 14 (2018). This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

In my capacity as legal counsel for the Virginia Department of Transportation and the Commonwealth Transportation Board, it is my legal opinion that the Department and the Board have the authority to repeal the regulations. Also, I have determined that this action is exempt from the Administrative Process Act pursuant to Virginia Code § 2.2-4002(B)(3).

Virginia Code §§ 33.2-210 and -313 provide that the Commonwealth Transportation Board has the power and duty to make regulations that are not in conflict with the laws of the Commonwealth for the protection of and covering traffic on and for the use of systems of state highways and shall have the authority to add to, amend, or repeal such regulations. Further, Virginia Code § 33.2-313 provides that the Commissioner of Highways may assume maintenance of certain highways which are part of the primary state highway system.