



COMMONWEALTH of VIRGINIA


Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: The Honorable Gregory A. Whirley, Sr.
Commissioner of Highways
Virginia Department of Transportation

FROM: Jeffrey R. Allen 
Senior Assistant Attorney General

DATE: July 31, 2012

SUBJECT: Statutory Authority to Repeal the Access Management Regulation for Principal Arterials (24VAC30-72) and to Amend the Access Management Regulation for Minor Arterials, Collectors and Local Streets (24VAC30-73) to Apply to Principal Arterials, Minor Arterials, and Local Streets

I have reviewed VDOT's amendment of the Access Management Regulations (24VAC30-73) and the repeal of Access Management Regulations: Principal Arterials (24VAC30-72). Essentially this regulatory action streamlines two state road and highway access management regulations into a single unified regulation and amends the single regulation for clarity and accuracy, without making any substantive changes to the requirements of those heretofore separate regulations. The action was received in this Office for review on Friday, July 27, 2012.

In my capacity as legal counsel for the Virginia Department of Transportation, it is my legal opinion that the Virginia Department of Transportation has the statutory authority to repeal the Access Management Regulations: Principal Arterials (24VAC30-72) and to amend the Access Management Regulations (24VAC30-73), essentially incorporating all of the former regulations found in 24VAC30-72 and 24VAC30-73 into the amended 24VAC30-73, under §§ 33.1-198.1(C) (directing the Commissioner of Highways to develop and implement comprehensive highway access management standards for managing access to and preserving and improving the efficient operation of the state systems of highways), and 33.1-13 (providing the Commissioner with the power to do all acts necessary or convenient for constructing, improving, maintaining, and preserving the efficient of the Commonwealth's road system) of the *Code of Virginia*. Furthermore, I have reviewed these regulatory changes and believe that they comport with all applicable state and federal laws.

If any other questions arise, please do not hesitate to contact me.