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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 16, 2021

SUBJECT: Repeal of the Department of Transportation Economic Development Access Fund Policy, 24VAC30-271

At your request, I have reviewed the Department's proposed repeal of the Economic Development Access Fund Policy, 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) and (4) and - 4006(A)(4)(a).

Virginia Code § 33.2-210 provides 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.