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MEMORANDUM

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

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

DATE: August 27, 2019

SUBJECT: Changes to the Department of Transportation Regulations Governing Public Participation Guidelines, 24 VAC 30-11-50

At your request, I have reviewed VDOT's proposed changes to the Public Participation Guidelines (24 VAC 30-11-50). 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 proposed changes to the regulations bring the regulation into compliance with § 2.2-4007.02(B) of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect.

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.

Further, Virginia Code § 2.2-4006(A)(4)(a) states that this regulatory action is exempt from the Administrative Process Act.