



COMMONWEALTH of VIRGINIA
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MEMORANDUM

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

FROM: Anna Johnson
Assistant Attorney General

DATE: January 6, 2022

SUBJECT: Amendment of the Department of Transportation Land Use Permit Regulation,
24VAC30-151

At your request, I have reviewed the Department's proposed amendment of the Land Use Permit Regulation 24VAC30-151, made after the recodification of the statutes relating to mining and energy by Chapter 387 of the 2021 Special Session of the General Assembly. 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 amend 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 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.