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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 Rules Governing Prequalification and Classification, 24VAC30-130

At your request, I have reviewed the proposed repeal of the Rules Governing Prequalification and Classification, 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)(2).

Virginia Code § 33.2-209 provides that the Commonwealth Transportation Board has the power and duty to let all contracts in excess of \$5 million to be administered by VDOT for the construction, maintenance, and improvement of highways comprising systems of state highways.