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MEMORANDUM

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

FROM: Chandra D. Lantz
Senior Assistant Attorney General and Section Chief

DATE: October 25, 2023

SUBJECT: Periodic Review of Change of Limited Access Control, 24 VAC 30-401

In my capacity as legal counsel for the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board, it is my legal opinion that the Change of Limited Access Control does not appear, on its face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it 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 § 33.2-401 states that the Commonwealth Transportation Board may plan, designate, acquire, open, construct, reconstruct, improve, maintain, discontinue, abandon, and regulate the use of limited access highways.

Further, Virginia Code § 2.2-4002(B)(4) states that this regulatory action is exempt from the Administrative Process Act. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.