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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 Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways, 24 VAC 30-580

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 Guidelines for Considering Requests for Restricting Through Trucks on Primary and Secondary Highways do not appear, on their 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 § 46.2-809 states that the Commonwealth Transportation Board, or its designee, in response to a formal request by a local governing body, after such body has held public hearings, may, after due notice and a proper hearing, prohibit or restrict the use by through traffic of any part of a primary or secondary highway if a reasonable alternate route is provided.

Further, Virginia Code § 2.2-4002(B)(11) states that this regulatory action is exempt from the Administrative Process Act as an agency action relating to traffic signs, markers, or control devices. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.