



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

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

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

DATE: August 10, 2021

SUBJECT: Repeal of the Department of Transportation Policy on Placing Utilities
Underground, 24VAC30-160

At your request, I have reviewed VDOT's proposed repeal of the Policy on Placing Utilities Underground, 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)(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.