



# COMMONWEALTH *of* VIRGINIA

Office of the Attorney General

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September 28, 2005

The Honorable Gregory A. Whirley, Acting Commissioner  
Virginia Department of Transportation  
1201 East Broad Street  
Richmond, Virginia 23219

Re: Authority to Promulgate Comprehensive Roadside Management  
Program Regulations, 24 VAC 30-121

Dear Commissioner Whirley:

By letter dated January 10, 2005, my colleague Suzanne T. Ellison originally notified you that she had reviewed the above-referenced regulations and determined that the Commonwealth Transportation Board had the authority to promulgate the regulations by virtue of the specific authority granted by § 33.1-223.2:9 of the Code of Virginia. General authority exists by virtue of § 33.1-12(3) (General Powers and Duties of the Board), and § 33.1-69 (Control, Supervision and Management of the Secondary Road System). By letter dated March 28, 2005, Ms. Ellison advised you that the amendments to the regulations to include interstate interchanges were within the statutory authority cited and noted in § 33.1-49 as additional authority.

Now, I have been notified that additional changes were made as a result of the public comments received and reviewed. The authority to adopt the regulations has not been altered, namely, pursuant to § 33.1-223.2:9, § 33.1-12(3), § 33.1-69 and § 33.1-49, the Commonwealth Transportation Board has the authority to promulgate the regulations and to incorporate the changes derived from the public hearing per § 2.2-4009.

Sincerely,

John J. Beall, Jr.  
Senior Assistant Attorney General