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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 23, 2021

SUBJECT: Repeal of the Department of Transportation Regulations on Virginia Scenic Highways and Byways, 24VAC30-390

At your request, I have reviewed the Department's proposed repeal of the regulations on Virginia Scenic Highways and Byways, 24VAC30-390, 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 § 33.2-405 provides that the Commonwealth Transportation Board is authorized to designate any highway as a scenic highway or as a Virginia byway, but does not require a regulation, and therefore, the Board has the authority to repeal this regulation.