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Proposed Regulation Agency Background Document

Agency name	Department of Motor Vehicles
Virginia Administrative Code (VAC) Chapter citation(s)	24VAC20-80, 24VAC20-81, 24VAC20-82
VAC Chapter title(s)	Repeal of Overload Permit Regulations and Hauling Permit Regulations, Promulgate Permit Regulations
Action title	Repeal Chapters 80 and 81 and Promulgate Chapter 82 Regulations
Date this document prepared	July 12, 2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Motor Vehicles intends to repeal 24VAC20-80, Overload Permit Regulations, and 24VAC20-81, Hauling Permit Regulation, and promulgate a new set of regulations by combining and amending the existing regulations into one new chapter to more clearly describe permitting requirements, to bring the regulations into conformity with existing law, and to incorporate procedural changes adopted to enhance efficiency and user experience.

Both chapters DMV intends to repeal prescribe requirements for obtaining permits to operate overweight vehicles and should be combined for consistency and ease of reference.

When promulgating the new regulations the Department of Motor Vehicles will consider amendments to the existing regulations to include clarifying the regulations as necessary, deleting obsolete or duplicative

information, and updating processes to make them more efficient and cost effective, while maintaining the safety of the traveling public and the integrity of the Commonwealth's transportation infrastructure.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

"DMV" means Department of Motor Vehicles.

"VDOT" means Virginia Department of Transportation.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

DMV concluded a periodic review of 24VAC20-80 and 24VAC20-81 and determined the regulations should be repealed, as needed amendments were extensive enough to justify promulgating a new chapter to revise the regulations and bring them into conformity with law and current practices.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

DMV regulations are promulgated under the general authority of § 46.2-203 of the Code of Virginia which grants DMV statutory authority to promulgate regulations "necessary to carry out the laws administered by the Department." Section 46.2-1128 of the Code of Virginia authorizes DMV to grant an overload permit to certain vehicles that exceed statutory weight limits and specifically provides that DMV may promulgate regulations governing such permits. Sections 46.2-1139 et seq. of the Code of Virginia authorize DMV to issue permits that allow certain vehicles that exceed statutory weight or size limits to operate on the highway and authorize DMV to promulgate regulations governing such permits.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The Overload Permit Regulations (24VAC20-80 et seq.) and the Hauling Permit Regulations (24VAC20-81 et seq.) last underwent comprehensive revisions in 1988 and 2007. Since that time, changes in technology and business practices and amendments to Chapter 10 of Title 46.2 of the Code of Virginia and federal regulations governing maximum vehicle size and weight necessitate a comprehensive

regulatory review to ensure the regulations complement existing statutes, impose minimal burdens on permittees while protecting the traveling public and transportation infrastructure, and reflect current agency policies and procedures. The regulations will also be reviewed to ensure they achieve their intended objectives in the most efficient, cost-effective manner, and are clearly written and understandable. DMV may propose other changes it identifies as necessary during the regulatory review process.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

DMV has completed a general review of the existing regulations and identified changes necessary to conform the regulations to existing law, ensure consistency in the permitting process and improve clarity and ease of use while protecting the health, safety, and welfare of the traveling public and the Commonwealth’s transportation infrastructure.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage to the public of the repeal of 24VAC20-80 and 24VAC20-81 and the promulgation of new regulations proposed as 24VAC20-82 is to clarify language that was unclear, inconsistent, or inaccurate due to legislative changes and to consolidate the regulations in a single chapter for ease of reference.

The proposed regulations clarify, but do not increase, DMV and VDOT responsibilities with regard to approving and issuing permits.

There are no disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact

which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

VDOT

Localities Particularly Affected

No locality is particularly affected.

Other Entities Particularly Affected

Entities affected are those businesses involved in transporting oversize and overweight vehicles. The regulations do not have a disproportionate material impact on any type of business in this industry.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>There is no projected cost to DMV from the promulgation of these regulations. DMV staff are already responsible for reviewing and issuing hauling permits and overload permits and updating manuals and permit applications. The repeal and promulgation of new regulations will not increase the level of work activities that are part of routine work responsibilities and performed with existing funding.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There is no projected cost to other state agencies associated with the changes to these regulations. With regard to VDOT engineering analysis, the proposed regulations clarify the responsibilities of VDOT and permit applicants and reflect existing business practices.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The changes help clarify regulatory content for DMV, VDOT, and regulated industries. The changes improve content that may be unclear, inconsistent, or obsolete, and incorporate statutory changes that have occurred since the last regulatory revision.</p>

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There is no projected cost to localities from repealing and promulgating amended regulations.
Benefits the regulatory change is designed to produce.	There is no anticipated impact to localities from these regulatory changes.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	The changes are not expected to have an economic impact on permit applicants.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The changes to the regulations will not have an economic impact on permit applicants, as the changes have been made to clarify the responsibilities of the applicant but do not change any existing fee or application.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There are no projected costs to affected individuals, businesses or other entities resulting from these regulatory changes.
Benefits the regulatory change is designed to produce.	The regulations have the beneficial impact of ensuring that permit applicants understand their responsibilities with regard to making permit applications and operating under an approved permit.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

No alternative action was considered because the Code of Virginia gives the DMV Commissioner authority to promulgate these regulations. Amending the regulations is the least burdensome method to accomplish this purpose.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

No alternatives to the regulatory action were considered, as § 46.2-1128 and Article 18 (§ 46.2-1139 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia give DMV the responsibility for issuing permits for oversize or overweight vehicles and for establishing regulations governing those permits. No alternative regulatory method would require less stringent compliance or reporting requirements, less stringent schedules or deadlines for compliance, or simplify compliance. Small businesses are not exempt from the regulatory action.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

DMV is authorized to promulgate regulations relating to oversize and overweight permits. A continued need for the regulations exists. The regulations complement existing statutes, impose minimal burdens on permittees, and protect the traveling public and the transportation infrastructure. By repealing 24VAC20-80 and 24VAC20-81 and replacing them with the proposed 24VAC20-82, DMV has simplified and clarified the responsibilities of the regulated community and eliminated areas in which the regulations overlapped, duplicated, or conflicted with state law and other regulation. It has been over ten years since the regulations have been comprehensively revised.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those

received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comments were received following the publication of the NOIRA.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The DMV is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to angela.schneider@dmv.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
80-10	82-10	Definitions.	Cross-references and citations corrected, definitions not used in regulations deleted.

80-20	Not applicable	General statement of authority to regulate.	Repealed as unnecessary regulatory language.
80-30	Not applicable	General statement of regulatory process	Repealed as unnecessary regulatory language.
80-40	82-20	When purchased, validity period, transfer fee, and information provided on permit application.	Fees set out in § 46.2-1128 have superseded the fees from subsection E. In subsections F, G, and H, language duplicative of § 46.2-1128 is repealed. Revisions to the proposed section better reflect existing practices and expectations with regard to how IRP and non-IRP permit transfers are processed.
80-50	Not applicable	Gross weight allowed.	Language duplicative of § 46.2-1126 is repealed.
81-10	82-10	Definitions.	The definitions sections of both chapters are repealed. Definitions not used in the regulations are removed. Remaining definitions are combined and corrected to match state and federal law.
81-20	Not applicable	General statement of purpose.	Repealed as unnecessary regulatory language.
81-30	82-30	Lists conditions under which a permit will be issued and outlines DMV contact information.	Repeals obsolete contact information and methods for submitting a permit.
81-40	Not applicable	Vehicle configurations for which a permit may be needed for interstate highways.	Language duplicative of §§ 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1116, 46.2-1137, and 46.2-1139 is repealed.
81-50	Not applicable	Vehicle configurations for which a permit may be needed for other highways.	Language duplicative of §§ 46.2-1109, 46.2-1110, 46.2-1112, 46.2-1115, 46.2-1127, and 46.2-1139 is repealed.
81-60	Not applicable	Legal weight allowed based on axle spacing.	Language duplicative of § 46.2-1126 is repealed.
81-70	82-70	Maximum weight allowed by permit without engineering review. Replaced with "Requirements for in-depth engineering analysis."	Repeal and replace. Section 46.2-1139(G) requires an engineering analysis when such analysis is required to promote safety and preserve the capacity and structural integrity of highways and bridges. The new language clarifies how and when engineering analysis is performed and the obligations of the regulated community with respect to the engineering analysis.
81-80	82-70	Maximum weight allowed by permit without engineering review based on axle spacing. Replaced with "Requirements for in-depth engineering analysis."	Repeal and replace. Section 46.2-1139(G) requires an engineering analysis when such analysis is required to promote safety and preserve the capacity and structural integrity of highways and bridges. The new language clarifies how and when engineering analysis is performed and the obligations of the regulated

			community with respect to the engineering analysis.
81-90	82-50	Requirements for single trip permits with dimensional limitations.	Dimensional limitations repealed because an engineering analysis may be required for an unusual configuration regardless of dimensions. Proposed 24VAC20-82-70 clarifies when additional engineering analysis is needed.
81-100	82-60	Requirements for superload single trip permits with dimensional limitations and information required to be submitted with the permit application.	Language detailing request for in-depth engineering analysis is repealed and clarified in a new section. Dimensional limitations repealed. Proposed 24VAC20-82-70 clarifies when additional engineering analysis is needed.
81-110	82-80	Requirements for multi-trip permits with dimensional limitations.	Permit requirements conformed to statute. Dimensional limitations repealed because an engineering analysis may be required for an unusual configuration regardless of dimensions. Proposed 24VAC20-82-70 clarifies when additional engineering analysis is needed.
81-120	82-90	Requirements for superload multi-trip permits	Language is clarified with no substantive regulatory changes.
81-130	82-100	Requirements for exempt multi-trip permits.	Language duplicative of §§ 46.2-1141, 46.2-1142, 46.2-1142.1, 46.2-1143, 46.2-1143.1, 46.2-1144, 46.2-1144.1, 46.2-1148, 46.2-1149,1, 46.2-1149.4, and 46.2-1149.5 is repealed.
81-140	Not applicable	Fees.	Repealed. Fees in this section are statutorily mandated with one exception and that fee is removed to another section.
81-150	82-110	Travel restrictions.	Requirements are clarified.
81-160	82-120	Escort vehicle equipment requirements.	Requirements are clarified.
81-170	Not applicable	Escort vehicle driver certification.	Language duplicative of §§ 46.2-2901 and 46.2-2903 is repealed.
81-180	82-130	Escort vehicle and driver requirements.	No new substantive requirements.
	82-140	Reissue or duplicate escort vehicle driver certificate fee.	Fee formerly found in 24VAC20-81-140.
81-190	82-150	Requirements for emergency move permits.	Unnecessary language removed, remaining requirements clarified.
81-200	Not applicable	National defense move requirements	Language is general and duplicative of federal rules.
81-210	82-160	Requirements to proof permit, comply with permit terms and conditions, notify DMV of incidents, etc.	Language clarified, general language removed.
81-220	82-170	Responsibility for injury or damage.	No new substantive requirements.
81-230	82-180	Denial, revocation, refusal to renew, appeal and invalidation.	No new substantive requirements.

81-240	Not applicable	Hazardous materials	Language is general and duplicative § 10.1-1426.
81-250	Not applicable	Weigh stations	No requirements.