



Virginia  
Regulatory  
Town Hall

Notice of Intended Regulatory Action  
Agency Background Document

<b>Agency Name:</b>	20
<b>VAC Chapter Number:</b>	70
<b>Regulation Title:</b>	<i>Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia</i>
<b>Action Title:</b>	NOIRA
<b>Date:</b>	October, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The Board of Education is requesting authorization to prepare and submit the Notice of Intended Regulatory Action [as required by the Virginia Administrative Process Act and Executive Order Number 25 (1998)] in order to amend 8 VAC 20-70-10: *Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia*.

These regulations were last revised in 1994. Since that time, statutory provisions addressing the content of these regulations

have been enacted or amended, resulting in conflicting requirements that have the potential to mislead the public.

Federal standards addressing bus equipment and construction have, in some instances, changed significantly since the current regulations were last amended. Consequently, Virginia is unable to permit the use of equipment permitted under federal standards because it is not permitted by our current regulations.

Technological and manufacturing advancements that are not addressed in the current regulations have resulted in regulations and manufacturing requirements that are too restrictive and are in conflict with the "state-of-the-art".

The 2000 *National Standards for School Transportation* will be available by December 2000. These standards address such issues as school inspections, infants and toddlers, special education and specially equipped school buses. Those standards will be reviewed as a part of the revision process in order to incorporate changes, as appropriate.

#### Basis

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

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The state source of legal authority is contained in Article VIII, §4, Constitution of Virginia; *Code of Virginia* §22.1-176; 22.1-177; 22.1-178; 22.1-181; and 22.1-186.

The scope of legal authority is defined by Article VIII, § 4 of the Constitution of Virginia, which vests in the Board of Education the general supervision of the public school system.

Section 22.1-16 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-16>, *Code of Virginia*, authorizes the Board to promulgate "such regulations as may be necessary to carry out its powers and duties."

Section 22.1-177 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-177>, *Code of Virginia*, gives the Board general authority to make regulations relating to the construction, design, operation, equipment, and color of public school buses. This section of the Code also gives the authority to issue an order prohibiting the operation on public streets and highways of any public school bus that does not comply with such regulations.

Further, §22.1-176 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-176> and §22.1-186 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-186>, *Code of Virginia*, authorize the Board to promulgate regulations relating to fees for school transportation.

Section 22.1-178 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-178> additionally sets forth requirements for school bus drivers and authorizes the Board to furnish forms to school divisions to obtain information from applicants for employment as school bus drivers as required in statute.

### Substance

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

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The following summarizes a preliminary list of issues that must be addressed with changes in the pupil transportation regulations.

- The 2000 General Assembly added §46.2.324, *Code of Virginia*. This section addresses requirements for the initial licensure of certain applicants who have Commercial Driver's License (CDL) learner's permits.
- The 1999 General Assembly amended §46.2-871, *Code of Virginia*, permitting a higher speed limit for school buses on certain

highways. Currently, Board of Education regulations prohibit the higher speed limit.

- The 1998 General Assembly amended §22.1-178, *Code of Virginia*, allowing a licensed nurse practitioner to perform and record the results of the annual school bus driver's physical examination. Currently, Board regulations allow only a licensed, Virginia physician to perform the examination and record the results.
- The 1997 General Assembly amended §46.2-1090.1, *Code of Virginia*, to permit the use of the roof-mounted strobe lights anytime students are on board. Current regulations prohibit the use of these lights except when the school bus transports students during periods of reduced visibility caused by conditions other than darkness.
- The 1996 General Assembly amended §22.1-221, *Code of Virginia*, allowing students other than those with special needs to ride a specially equipped school bus without affecting exclusive fund reimbursement.
- The General Assembly amended §46.2-498, *Code of Virginia*, revising the driver improvement clinic.
- The 1995 National Standards on School Transportation recommends eight hours of in-service training for school bus drivers. The current regulations require four hours of in-service training for school and activity bus drivers.
- Section 46.2-340, *Code of Virginia*, requires new or revised data on school bus drivers to be submitted to DMV whenever needed rather than the tenth of each month as currently stated in Board regulations.
- Due to changes in engineering standards and design, the Board of Education should consider modifications to the requirements for much of the equipment currently contained in the existing regulations.
- The Board of Education should also consider changes related to the requirements for Type A buses due to technological changes in their manufacture.
- The requirement for a back-up alarm installed on all new school buses was approved in 1994, but was omitted from the

July 1, 1994 Board regulations; therefore, this requirement needs to be included in the revised regulations.

- Due to the increase in the number of infants and toddlers and students with disabilities being transported, the Board should consider changes in training requirements for drivers and equipment specifications.
- Several issues must be considered with respect to changes that can improve school bus safety. These include:
  1. Use of approved fire suppression systems in all gas-powered and specially equipped school buses.
  2. Use of equipment such as radios, cellular telephones, and other communications devices.
  3. Changes to address snagging incidents associated with doors and handrails.
  4. Use of turn arrows on rear turn signal lenses to eliminate potential confusion caused by the many lights on the school bus.
  5. Requirements for use and mounting of roof-mounted strobe lights on all new buses.
  6. Requirements related to seat belts and other passenger restraint systems.
  7. Revisions to driver training requirements.

**Alternatives**

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

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Discussions have been held during the last several years with statewide committees composed of transportation directors, mechanics, and manufacturing representatives. Alternatives and revisions from the public will be given full consideration during the review process. Ultimately, the current regulations must be revised to eliminate conflict with existing state laws and to introduce new technology and safety enhancements.

**Family Impact Statement**

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of*

*parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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Neither current law nor the pupil transportation regulations require students to ride public school buses. However, to the extent that students ride public school buses, these regulations will provide standards and requirements to help ensure the safety of children.

Many changes that will increase the safety of school buses, thus further ensuring the safety of children being transported to and from our public schools will promote family well-being.

The provision of safe, free transportation to and from school can provide economic assistance to parents by eliminating the need for parents to transport their children to and from school.