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## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Motor Vehicles
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	24VAC20-80, 24VAC20-81, 24VAC20-82
<b>VAC Chapter title(s)</b>	Overload Permit Regulations, Hauling Permit Regulation, Permit Regulations
<b>Action title</b>	Repeal Chapters 80 and 81 and Promulgate Chapter 82 Permit Regulations
<b>Date this document prepared</b>	May 3, 2022

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.*

This action is the final stage of the repeal of 24VAC20-80, Overload Permit Regulations, and 24VAC20-81, Hauling Permit Regulation, and the promulgation of a new chapter of all overweight and overdimensional permit regulations. Regulations from the repealed chapters are combined and amended into one chapter to more clearly describe permitting requirements, to bring the regulations into conformity with existing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Both repealed chapters address the requirements for obtaining permits to operate overweight vehicles. These chapters are combined for consistency and ease of reference. Duplicative, contradictory, and obsolete regulations have been deleted or amended. The new regulations have been reviewed to ensure they are efficient, cost effective, accurately reflect the processes in place, and conform to statutory

requirements. The regulations are intended to maintain the safety of the traveling public and the integrity of the Commonwealth’s transportation infrastructure.

The final stage reflects one minor change made to the regulation from the proposed stage. The change was made to conform the regulation to a statutory change enacted during the 2022 General Assembly Session regarding the color of flags authorized to mark oversized loads.

### 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.*

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“DMV” means Department of Motor Vehicles.  
“VDOT” means Virginia Department of Transportation.

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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On May 3, 2022, the Virginia Department of Motor Vehicles adopted the final regulation for the Permit Regulations.

### Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to the previously reported information.

### 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.*

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The promulgating agency is DMV.

Virginia Code § 46.2-203 grants DMV general statutory authority to promulgate regulations “necessary to carry out the laws administered by the Department.”

Virginia Code § 46.2-1128 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.

Article 18 (§ 46.2-1139 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia authorizes DMV to issue permits that allow certain vehicles that exceed statutory weight or size limits to operate on the highway and authorizes 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 Regulation (24VAC20-81 et seq.) last underwent comprehensive revisions in 1988 and 2007, respectively. Since that time, changes in technology and business practices and amendments to Chapter 10 of Title 46.2 of the Code of Virginia and to federal regulations governing maximum vehicle size and weight necessitated 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 have been reviewed to ensure they achieve their intended objectives in the most efficient, cost-effective manner, and are clearly written and understandable.

## 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

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no requirements that exceed applicable federal requirements.

There are no changes to previously reported information.

### Agencies, Localities, and Other Entities Particularly Affected

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.*

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There are no changes to previously reported information.

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.

### 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.*

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No public comments were received on Town Hall and no public comments were submitted directly to the agency.

### Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
81-160 (G)	20-82-40		Flags are required to be red or orange fluorescent.	The regulations formerly required red or any fluorescent color. The passage of HB 67 during the 2022 General Assembly Session requires red or orange fluorescent flags. The likely impact of this change is minimal as 49 CFR 393.87 already required commercial motor vehicles transporting a load which extends beyond the sides by more than 4 inches or more than 4 feet beyond the rear to have the extremities of the load marked with red or orange fluorescent warning flags.
81-160 (G)	20-82-120		The requirements are not changed.	The language is modified to distinguish the flags used for marking vehicle loads (20-82-40) from the flags described in this section used for traffic control purposes.

**Detail of All Changes Proposed in this Regulatory Action**

*List all changes proposed in this action and the rationale for the changes. 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. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated 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.
81-10 81-160 (G)	82-40	The language regarding off-centered loads formerly required the overhang to be located on the passenger side of the loaded vehicle.	Language was clarified to maximize safety by specifying that any overhang should be located on the side of the loaded vehicle on the outside shoulder side of the roadway to avoid passing and oncoming traffic when the vehicle will not be traveling in the traditional right lane. When flags are required and where they should be placed were clarified to conform with statutory requirements of Virginia Code § 46.2-1121.
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.