

MEMORANDUM

TO: Melissa Velazquez
Legislative Service Manager, Department of Motor Vehicles

FROM: Christian Parrish
Assistant Attorney General

DATE: May 16, 2022

SUBJECT: Repeal of Overload Permit and Hauling Permit Regulations and Promulgation of Permit Regulations (24VAC 20-82)

At your request, I have reviewed the Department of Motor Vehicles' posting for the repeal of Overload Permit (24 VAC 20-80) and Hauling Permit Regulations (24 VAC 20-81) as well as the promulgation of a new set of regulations (24VAC 20-82) encompassing Permit Regulations, 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.

With regard to DMV's repeal of 24 VAC 20-80 and 24 VAC 20-81, and combining and amending these regulations to promulgate a new set of regulation under 24VAC 20-82 in regards to permit regulations, it is my legal opinion that DMV has both the statutory authority and implied authority to enact, amend, revise, repeal and review the existing regulations governing overload and hauling permits.

Article 18 of Chapter 10 of Title 46.2 of the Virginia Code (§§ 46.2- 1139 *et seq.*) provides that DMV may issue permits for hauling certain substances; this article further provides that DMV may promulgate regulations governing such permits. In addition, Va. 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. Lastly, Va. Code § 46.2-203 provides general statutory authority for DMV to promulgate regulations "necessary to carry out the laws administered by the Department." Such authority, by implication, includes the authority to modify, amend, enact and review such regulations as have been promulgated thereunder as is necessary to carry out DMV's duties.

Finally, I have reviewed the current regulations and confirm that the current regulations pose no current conflict to existing laws.