



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Transportation (Commonwealth Transportation Board)
Virginia Administrative Code (VAC) citation	24 VAC 30-111
Regulation title	Hauling Permit Manual
Action title	Repeal of Regulation Due to Transfer of Responsibility to DMV
Final agency action date	December 8, 2010
Document preparation date	December 8, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Chapter 314 of the Acts of Assembly of 2003 transferred responsibility for the oversize and overweight vehicle registration and permit program from the Virginia Department of Transportation (VDOT) to the Department of Motor Vehicles (DMV). The legislation provided that the regulations governing this program promulgated by VDOT shall remain in force until such regulations are amended, modified, or repealed by DMV. VDOT's regulations were contained in the *Hauling Permit Manual*, filed in the Virginia Administrative Code as 24 VAC 30-111. DMV's replacement regulations, *Hauling Permit Regulation* (24 VAC 20-81) went into effect September 29, 2009. As a result, VDOT can now repeal the *Hauling Permit Manual* as there is no longer a statutory requirement that VDOT's regulations remain in effect.

VDOT's authority to promulgate the regulation was provided by §§ 33.1-12 (3), 33.1-49, and 46.2-1139 et seq. of the *Code of Virginia*. In addition to Chapter 314 of the Acts of Assembly of 2003, VDOT believes the authority granted by § 33.1-12 (3) to "make rules and regulations . . . for the protection of and covering traffic on and the use of systems of state highways and to add to, amend or repeal the same" also grants

authority for the CTB to repeal this regulation. Furthermore, because Chapter 314 provides that DMV's regulations are to replace VDOT's regulations on the same subject, the legislation provides an exemption for the regulatory action from the requirements of the Administrative Process Act (§ 2.2-4000 et seq. of the *Code of Virginia*) pursuant to § 2.2-4006 A 4 a, which relates to agency actions that are "necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved."

The Office of the Attorney General confirmed VDOT's authority to repeal the regulation and determined that the action is exempt from the APA pursuant to § 2.2-4006 A 4 a.

Statement of final agency action

Please 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.

On December 8, 2010, the Commonwealth Transportation Board repealed the regulation titled *Hauling Permit Manual* (24 VAC 30-111).

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will have no effect on the institution of the family and family stability.