



Virginia
Regulatory
Town Hall

Periodic Review and
Exempt Action or Exempt Agency Final Regulation
Agency Background Document

Agency Name:	Virginia Department of Transportation (Commonwealth Transportation Board)
VAC Chapter Number:	24 VAC 30-111-10
Regulation Title:	Hauling Permit Manual
Action Title:	Amend Existing Regulation
Date:	January 16, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation which is exempt from the Administrative Process Act pursuant to § 9-6.14:4.1.

Note that agency actions exempt pursuant to § 9-6.14:4.1 do not require filing with the Registrar a Notice of Intended Regulatory Action or at the proposed stage. The agency must still, however, comply with the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their final regulation in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

The Hauling Permit Manual, which is issued by VDOT on behalf of the Commonwealth Transportation Board (CTB), identifies conditions under which overweight and oversize hauling permits may be granted, and sets forth the fee structure for the permits.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

§§ 33.1-12(3) and 33.1-49 of the Code of Virginia give the CTB broad authority to regulate traffic on state highways, as well as the use of the highway systems. The specific basis of the Hauling Permit Manual is Article 18 (§ 46.2-1139 et seq.) of Chapter 10 of Title 46.2. This article allows the Commonwealth Transportation Commissioner and local authorities to issue permits allowing a vehicle exceeding the size and weight limitations set out in the article to be operated on a highway.

The statute combines both mandatory and discretionary elements. For instance, § 46.2-1139 B specifies circumstances under which permits may or may not be granted. § 46.2-1140 allows the Commissioner the discretion to authorize specific routes for the permittee to travel, after coordinating the route with affected localities. Finally, § 46.2-1143 directs the Commissioner and local officials to issue overweight permits to coal haulers at no cost, subject to routine application and other criteria.

The regulation does not exceed the specific minimum requirements of the state mandate.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

VDOT received no public comment in response to the Notice of Periodic Review published in *The Virginia Register*.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected. Please state the reasons the agency determined the regulation be amended or terminated.

The specific and measurable goals are as follows:

1. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth;
2. To ensure compliance with statute concerning the transportation of cargo on state-owned highways.
3. Is the regulation written clearly and understandably?

VDOT believes that this regulation fulfills the goals listed above.

The regulation is written to provide a general overview of the policies and procedures involved. VDOT believes that the absence of public comment during the notice period indicates the regulation is serving its intended purpose.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Federal statutes allow states to issue special permits under certain conditions. The General Assembly has allowed the CTB (and, by extension, VDOT) to regulate traffic on Virginia's highways. The regulation has safety and economic benefits, both of which relate to There is no viable alternative for a regulation outlining the criteria and procedures VDOT uses in issuing permits associated with circumstances addressed in .

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency, including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

VDOT's Maintenance Division has identified a number of changes that are necessary to the regulation. The division believes that these changes fall under one or more of the exemptions from Article 2 as set forth in § 9-6.14:4.1(C). These include technical corrections to update obsolete nomenclature (e.g., "Hampton Roads Construction District") or information regarding VDOT contacts.

The division anticipates completing its revisions during early 2001. VDOT will process the final text of the regulation as required for APA-exempt regulations.

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.

If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.

The text of the regulation is not attached, as it is still in the revision stage. VDOT will process the final text of the regulation as required for APA-exempt regulatory actions. VDOT will also secure an opinion from the Office of the Attorney General that the content comports with applicable state law.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

This regulation has no effect on the institution of the family and family stability. No other factors identified above are affected by the regulation.