

# Virginia Regulatory Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	State Air Pollution Control Board
<b>Regulation Title:</b>	Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area
<b>Primary Action:</b>	9 VAC 5 Chapter 91
<b>Secondary Action(s):</b>	
<b>Action Title:</b>	Northern Virginia Vehicle Emissions I/M Program (Rev. MI)
<b>Date:</b>	September 27, 2002

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 2.2-4100 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations 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.

This agency background document may be used for actions exempt pursuant to § 2.2-4006 A through 4 at the final stage. Note that agency actions exempt pursuant to § 2.2-4006 A 1 through 4 of the APA do not require filing with the Registrar at the proposed stage.

### Summary

*Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.*

The regulation requires that affected vehicles be presented to emissions inspection stations biennially to receive an emissions inspection. This is accomplished through a network of service stations, repair garages, and other similar facilities that perform the inspections. Vehicles which fail the test are denied motor vehicle registration until inspection has been accomplished. Retests, after failure and repair, are free if accomplished within 14 days of the test and performed by the emissions inspection station which performed the initial test. If a motorist wishes to request a waiver of the test, an expenditure of at least \$450 on emissions-related repairs is required. The cost amount is adjusted each January by applying the Consumer Price Index released the previous fall by the federal government.

The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Cars and trucks weighing up to 10,000 pounds and are 25 years old and newer are subject to an exhaust emissions inspection using ASM equipment which tests cars under "loaded" conditions using a dynamometer. On- Board Diagnostics Systems (OBD) on vehicles so equipped will also be inspected. In addition, random testing of vehicles is accomplished using either roadside pullovers or a remote sensing device next to the roadway. Failing vehicles are required to report to an inspection for an out-of-cycle test.

The proposed amendment consists of the correction of a technical error that resulted in a conflict between 9 VAC 5-91-380 F 4, which says an inspector is not to provide his identification number to anyone except department personnel, and 9 VAC 5-91-300 G, which requires stations to maintain a file of the name, address and inspector identification numbers of the currently employed inspectors.

## 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.*

On September 30, 2002, the State Air Pollution Control Board adopted a final amendment to regulations entitled "Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area" (9 VAC 5 Chapter 91). The regulation amendment is to be effective on December 1, 2002.

The regulation amendment is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 3 of the Administrative Process Act because it consists only of a corrections of a technical error.

In adopting this amendment, the Board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

## Additional Information

*Please indicate that the text of the 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 regulation.*

*If the exemption claimed falls under § 2.2-4006 A 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 attached.

Section 46.2-1176-1187.3 of the Virginia Motor Vehicle Emissions Control Law (Title 46.2, Chapter 10 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations for the control of motor vehicle emissions and for the testing process. Letters providing written assurance from the Office of the Attorney General that (i) the Board has statutory authority to promulgate the final regulation amendment and (ii) the amendment qualifies as an exemption under § 2.2-4006 A 3 of the Administrative Process Act are available upon request.

## Family Impact Statement

*Please provide an analysis of the impact of the 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: 4) increase or decrease disposable family income.*

It is not anticipated that the regulation amendment will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendment will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

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