



Exempt Action Final Regulation Agency Background Document

Approving authority name	State Air Pollution Control Board
Primary action	9 VAC 5-91
Secondary action(s)	None
Regulation title	Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area
Action title	Hybrid Vehicles (Rev. MM)
Date this document prepared	November 4, 2008

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006(A) of the 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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99)

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Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed.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 definition of "affected motor vehicle" has been modified to state that the term does not apply to hybrid vehicles. Hybrid vehicles meeting specific EPA criteria are exempt from the program. The Va Code, §46.2-1178 B 1 states:

The emissions inspection program provided for in this article shall not apply to any qualified hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless remote sensing devices indicate the hybrid vehicle may not meet current emissions standards. The Board shall adopt such regulations as may be required to implement this exemption.

In addition, the term "qualified hybrid motor vehicle" has been added to the regulation as defined by law.

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 October 23, 2008, the State Air Pollution Control Board took final action to adopt amendments to the regulation entitled "Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area" (9 VAC 5 Chapter 91). The regulatory action is to be effective as provided in the Administrative Process Act.

The regulation amendments are 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 4 a of the Administrative Process Act because they are necessary to conform to Virginia statutory law.

In adopting these amendments, 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 and that it comports with applicable state and/or federal law.

If the exemption claimed falls under § 2.2-4006 A 4 c of the APA please identify the federal law or regulations being relied upon for the final agency action.

The text of the regulation is attached.

Section 46.2-1180 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. Letters providing written assurance from the Office of the Attorney General that (i) the Board has statutory authority to promulgate the final regulation amendments and (ii) the amendments qualify as an exemption under § 2.2-4006 A 4 a of the Administrative Process Act are available upon request.

Family Impact

Assess the impact of this 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; and 4) increase or decrease disposable family income.

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments 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.

TEMPLATES\EXEMPT\TH09
REG\DEV\MM-08TH