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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) citation(s)</b>	9VAC5 Chapter 91
<b>Regulation title(s)</b>	Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area
<b>Action title</b>	Mobile Source Exemptions (Revision MP)
<b>Final agency action date</b>	June 19, 2015
<b>Date this document prepared</b>	March 29, 2015

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) or an agency's basic statute, the agency is not required, however, 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 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Two changes are being made to the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area. The first concerns the exemption for autocycles, as required under Chapter 95 of the 2015 Acts of the Assembly. The second concerns legislation passed in 2006, specifically Chapter 729 of the 2006 Acts of the Assembly. That legislation provided for amendments to §§ 46.2-1177 and 46.2-1180 B which would change the length of a valid enhanced emissions inspection from two to four years for vehicles titled for the first time. However, there was a stipulation in Enactment Clause 2 of Chapter 729 that stated:

"2. That the provisions of the act shall become effective upon approval by the Environmental Protection Agency of Virginia's State Implementation Plan for areas of the Commonwealth covered by the vehicle emissions inspection program established pursuant to Article 22 (§ 46.2-

1176 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia, that does not included credit for emissions reductions achieved from testing motor vehicles that are less than four years of age."

The SIP was submitted June 12, 2007 and the Environmental Protection Agency's (EPA) action was published on April 10, 2015. In light of the EPA action, the 4 year exemption for a vehicle titled for the first time is now required to be included in the regulation.

The department is requesting approval of draft final regulation amendments that meet state regulatory requirements. Approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

### Acronyms and definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

EPA - U.S. Environmental Protection Agency

### 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 June 19, 2015, the State Air Pollution Control Board took final action to adopt amendments to regulations entitled "Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area," 9VAC5-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.

### Family impact

*Please 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.*

This regulation will impact families or dealerships that title automobiles for the first time in Virginia and provides for up to a four year registration period.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC5-91-20		The term "affected motor vehicle" does not mean any:  1. Vehicle powered by a clean special fuel as defined in §46.2-749.3 of the Code of Virginia, provided the federal Clean Air Act permits such exemptions for vehicles powered by clean special fuels;  2. Motorcycle;	The term "affected motor vehicle" does not mean any:  1. Vehicle powered by a clean special fuel as defined in §46.2-749.3 of the Code of Virginia, provided the federal Clean Air Act permits such exemptions for vehicles powered by clean special fuels;  2. Motorcycle <u>or autocycle, unless such autocycle has been emissions certified with an on-board diagnostic system by the U.S. Environmental Protection Agency;</u>
9VAC5-91-20			The term "affected motor vehicle" does not mean any:  <u>9. Vehicle manufactured for the current model year or any of the three immediately preceding model years unless identified by the remote sensing requirements of 9 VAC 5-91-180 as violating the emissions standards for on-road testing.</u>
9VAC5-91-30-D		D. Motor vehicles being titled for the first time shall be considered to have an enhanced emissions inspection valid for two years. Such vehicles are not exempt from the emissions inspection program and are subject to all other provisions of this chapter.	D. Motor vehicles being titled for the first time shall be considered to have an enhanced emissions inspection valid for <del>two</del> <u>four</u> years from the month of the first titling unless <u>identified as violating the emissions standards established for that program. A vehicle manufactured for the current model year or any of the three immediately preceding model years shall be considered to have a valid emissions inspection unless identified by the remote sensing program as violating the emissions standards established for that program.</u>

**Regulatory flexibility analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will*

*accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The regulation applies to motor vehicle emissions inspection requirements, is mandated by state law and will impact small businesses only to the extent that they title vehicles that operate in the Northern Virginia area. It does not impact any 1) establishment of less stringent compliance or reporting standards; 2) establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishment of performance standards for small businesses to replace design or operational standards required in the regulation; or 5) exemption of small businesses-provided they operate vehicles in the affected area- from all or any part of the requirements contained in the regulation.

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