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Periodic Review Report of Findings

Agency name	Air Pollution Control Board
Virginia Administrative Code (VAC) citation	9VAC5-91
Regulation title	Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area
Date this document prepared	October 1, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

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

DEQ- Department of Environmental Quality
OBD- on-board diagnostic

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Sections 46.2-1176 through 46.2-1187.3 of the Code of Virginia establish the requirements for motor vehicle emissions inspections and also authorize the Air Pollution Control Board to adopt the motor vehicle emissions inspection regulations.

Alternatives

Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

State law requires the Air Pollution Control Board to adopt motor vehicle emissions inspection regulations and state law specifies certain criteria that must be included in the regulations. The State Law requires biennial inspections to be conducted at official emissions inspection stations and specifies vehicles exempt from testing. There is no viable alternative to the regulations that is consistent with the requirements found in state law.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An advisory group was not formed to assist the agency with the periodic review. No comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulations are required by state law and are necessary to protect public health and welfare. The regulations contain the requirements for motor vehicle emissions inspections. The regulations are technical in nature, however they have been clearly written and are easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The regulations continue to be needed and are being retained without changes.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

The regulations continue to be needed. Motor vehicles are the single greatest source of pollutants in the northern Virginia area. This program helps to ensure that vehicles operate as cleanly as possible by periodically verifying vehicle emissions control systems are operating properly. Maintenance and repair of emissions control systems on vehicles minimizes the impact vehicle emissions have on air quality.

No comments were received during the comment period.

The regulations specify the requirements for motor vehicle emissions inspections in the Northern Virginia area and include the frequency of inspection, the type of testing to be conducted, and the emission standards that must be met. Most newer vehicles subject to the program have their on-board diagnostic (OBD) systems tested while other subject vehicles have their tailpipe emissions tested. Certain vehicles may also be tested using remote sensing technology and may be required to have a confirmation test conducted at an emissions inspection station based on their on-road emission results. Due to the numerous types of tests that may be used to evaluate a vehicle's emissions, the regulations may be viewed as complex.

The Clean Air Act Amendments passed by the U.S. Congress in 1990 required Virginia's Department of Environmental Quality (DEQ) to enhance the vehicle emissions inspection program -- to keep improving air quality and to reduce emissions further. In compliance with this federal mandate, DEQ has designed the program for maximum convenience, efficiency and reliability. Virginia's program does not conflict with federal or state laws or regulations.

These regulations were last amended in 2018 and were also amended in 2015, 2013, 2012, 2008, 2007, 2005, and 2002. These regulations have been periodically updated to maintain consistency with requirements of state law and to incorporate advancements in vehicle emissions testing technology.

These regulations contain a provision that allows certain vehicles to be tested using remote sensing technology. This provision helps minimize the impact the regulations have on some vehicle owners, including vehicles owned by small businesses.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

These regulations do not have a direct impact on the institution of the family or family stability.