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Exempt Action: Final Regulation Agency Background Document

Agency name	State Air Pollution Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC5-91
VAC Chapter title(s)	Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area
Action title	Amend program coordinator fee in accordance with 2024 Acts of Assembly Chapter 634 (Revision MS)
Final agency action date	June 4, 2024
Date this document prepared	July 1, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Regulation for the Control of Motor Vehicle Emissions in Northern Virginia is being amended in response to the passing of House Bill 213 (Chapter 634), which allows a fee to be charged by the inspection and maintenance (I/M) program coordinator for each certified analyzer system. This fee cap was originally set at \$3,500 per year; the cap has now been set at \$5,000 per year. To meet this statutory requirement, the regulation is amended to reflect the new fee cap.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Virginia Acts of Assembly – 2024 Session, Chapter 634: An Act to amend and reenact §§ 46.2-1177.1 and 46.2-1182 of the Code of Virginia, relating to emissions inspections; fees; agreement for services and service charge fees.

Statement of Final Agency Action

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 4, 2024, the State Air Pollution Control Board took final action to adopt an amendment to the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area (9VAC5-91). The regulatory action is to be effective as provided in the Administrative Process Act.

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 4 a of the Administrative Process Act because it consists only of a change necessary to conform to Virginia statutory law.

In adopting the 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.