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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) Chapter citation(s)</b>	Article 60 (9VAC5-40-9000 et seq.) of 9VAC5-40
<b>VAC Chapter title(s)</b>	9VAC5-40, Existing Stationary Sources
<b>Action title</b>	Adopt New Regulation to Incorporate Federal Emissions Guidelines for Existing Crude Oil and Natural Gas Facilities (Rev. B24)
<b>Final agency action date</b>	November 21, 2024
<b>Date this document prepared</b>	November 21, 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.*

In accordance with § 111(d) of the federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) has promulgated Emissions Guidelines (EG) for Greenhouse Gas (GHG) Emissions from Existing Crude Oil and Natural Gas Facilities, Subpart OOOOc of 40 CFR Part 60. This subpart establishes emission guidelines and compliance schedules for the control of GHG emissions from designated facilities in the crude oil and natural gas source category. The pollutants regulated by this subpart are greenhouse gases in the form of a limitation on emissions of methane from designated facilities that commenced construction, modification, or reconstruction on or before December 6, 2022. Because the EG applies to existing stationary sources, the Board must adopt a new article in 9VAC5-40, Existing Stationary Sources, that incorporates the federal rules by reference. This will enable Virginia to implement the federal standard at the state level, thereby satisfying this federal mandate.

[RIS2]

## 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."*

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The mandate for this regulatory change is § 111 of the federal Clean Air Act. Section 111(b) requires that EPA develop new source performance standards (NSPSs), and § 111(d) requires that EPA develop emissions guidelines (EGs) for existing sources that would otherwise be subject to a standard for new sources. The federal code requirements of § 111 are implemented through federal regulations at 40 CFR Part 60; both the NSPSs and EGs are found in 40 CFR Part 60.

On [March 8, 2024 \(89 FR 16820\)](#), EPA issued an EG for Existing Crude Oil and Natural Gas Facilities, [Subpart OOOOc of 40 CFR Part 60](#). Sections 60.5376c through 60.5378c allow states to use the model rule (§§ 60.5379c through 60.5430c) to implement the requirements of the EG and thereby meet the obligation to submit a rule as part of the state's § 111(d) plan. In order for Virginia to implement the federal standard, a standalone state regulation that adopts EPA's federal standard must be adopted. Otherwise, EPA will impose a federal plan on the Commonwealth.

## 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.*

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On November 21, 2024, the State Air Pollution Control Board took final action to adopt a new regulation under "Regulations for the Control and Abatement of Air Pollution," specifically, federal Emissions Guidelines for Existing Crude Oil and Natural Gas Facilities (Article 60 of 9VAC5-40). The regulatory action is to be effective as provided in the Administrative Process Act.

The new regulation 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 c of the Administrative Process Act because it is necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent EPA regulations.

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.