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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC5-40
<b>VAC Chapter title(s)</b>	Regulations for the Control and Abatement of Air Pollution
<b>Action title</b>	Emissions Standards for Natural Gas Infrastructure (Revision B20)
<b>Date this document prepared</b>	August 20, 2020

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 (1VAC7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

On September 12, 2018, Governor Northam directed the Virginia Department of Environmental Quality to identify ways to improve environmental protection in the Commonwealth, specifically, to develop a framework for limiting methane leakage from natural gas infrastructure that applies to new and existing sources and is tailored to Virginia-specific needs. This regulatory action will establish standards for limiting methane leakage from natural gas infrastructure tailored to meet Virginia-specific needs.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

CFR - Code of Federal Regulations  
LDAR - leak detection and repair

**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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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This regulatory action has been initiated pursuant to an announcement by Governor Northam on September 12, 2018. Specifically, the Governor announced that the Department of Environmental Quality (DEQ) would lead an effort to limit methane pollution within Virginia's border, including the establishment of a workgroup of environmental, academic and business stakeholders to support DEQ in its collection and evaluation of data to inform a State Air Pollution Control Board regulation development process. The workgroup has completed its work and it has been determined that a regulatory action should be initiated to establish standards for natural gas infrastructure tailored to Virginia-specific needs.

**Legal Basis**

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

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Statutory Authority

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

State Requirements

This regulatory action has been initiated pursuant to an announcement by Governor Northam on September 12, 2018.

**Purpose**

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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On September 12, 2018, Governor Northam announced a series of actions to help Virginia better address the impacts of carbon pollution from fossil fuels. The Governor announced that in support of this goal, Virginia has committed to developing a framework for limiting methane leakage from natural gas infrastructure. Methane is an extremely potent greenhouse gas; over twenty times more potent than carbon dioxide. Moreover, the infrastructure supporting the production, transmission, and distribution of natural gas has been identified as a significant source of methane emissions in the United States. The Governor noted that for that reason, and due to inaction at the federal level, Virginia must take action to

limit methane pollution within its borders. DEQ will lead this effort, and establish a work group of stakeholders to support DEQ in the collection and evaluation of data to inform the regulation development process.

The work group has completed its work and it has been determined that a regulatory action should be initiated to establish standards for natural gas infrastructure tailored to Virginia-specific needs to protect the health, safety or welfare of citizens from the effects of climate change and carbon pollution from fossil fuels.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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1. The draft regulation will be based on current Subpart OOOO, Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after August 23, 2011, and on or before September 18, 2015, and Subpart OOOOa, Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015, of 40 CFR Part 60. These federal standards will be tailored to specific Virginia needs, and will:

- Identify as affected units pipelines, compressor stations and underground storage associated with the natural gas transmission and storage sector, and gathering/boosting compressors and gas processing plants associated with the natural gas production and processing sector.
- Apply to existing units (extending Subparts OOOO and OOOOa applicability).
- Require recordkeeping and reporting requirements in support of the development of a robust methane emissions inventory.
- Address various options addressed by the original ad hoc work group, including the use of leak detection and repair (LDAR) and other means of achieving compliance; blowdowns; best management practices; control cost effectiveness; and periodic review of available technologies for innovations and improvements.

2. The recommended focus of overall regulatory activity will be based on each sector as follows:

- Primary focus on transmission and storage, including pipelines, compressor stations and underground storage associated with the natural gas transmission and storage sector, and gathering/boosting compressors and gas processing plants associated with production and processing.
- Secondary focus on production and processing, including drilling and well completion, producing wells, and gathering lines. These sector elements clearly need to be addressed; however, more information and a better emissions inventory are needed before proceeding.
- Potentially address distribution, including city gate regulators and meters, distribution mains, regulators and meters, and customers (large volume, commercial and residential). This sector appears to be already well controlled for methane emissions; however, options for further improvement may be identified as resources permit.
- If additional requirements for new natural gas infrastructure sources are determined to be necessary to meet Virginia-specific needs, amendments to the requirements for new sources may also be considered as part of this rulemaking

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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Alternatives to the proposal will be considered by the board. It has been tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory action. The alternatives being considered, along with the reasoning by which any of the alternatives have been rejected, are discussed below.

1. Adopt regulations to respond to the announcement from Governor Northam. This option is being selected because it meets the stated purpose of the regulatory action: to develop a regulation that limits methane leakage from natural gas infrastructure.
2. Make alternative regulatory changes. This option is not being selected because it would not meet the stated purpose of the regulatory action.
3. Take no action to adopt the regulation. This option is not being selected because it would not respond to Governor Northam’s directive.

## Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

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This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The agency is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation. Also, the agency is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: 1) projected reporting, recordkeeping, and other administrative costs; 2) the probable effect of the regulation on affected small businesses; and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at

<https://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 1105, Richmond VA 23218, phone 804-698-4426, fax 804-698-4178, email [karen.sabasteanski@deq.virginia.gov](mailto:karen.sabasteanski@deq.virginia.gov). In order to be considered, comments submitted by hand-delivery or mail must be received by close of business and comments submitted by email must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

### Public Hearing at Proposed Stage

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar (<https://www.virginia.gov/connect/commonwealth-calendar>).

### Regulatory Advisory Panel

*Please indicate, to the extent known, if advisers (e.g., regulatory advisory panel or negotiated rulemaking panel) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using a panel in the development of the proposal; 2) the agency is using a panel in the development of the proposal; or 3) the agency is inviting comment on whether to use a panel to assist the agency in the development of a proposal.*

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The board is using the ad hoc advisory group established to support DEQ in the collection and evaluation of data to inform a State Air Pollution Control Board regulation as the regulatory advisory panel to assist DEQ in the development of the regulation.

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