



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Mines, Minerals and Energy
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC 25-101
<b>Regulation title</b>	Regulations Governing Vertical Ventilation Holes and Mining near Gas and Oil Wells
<b>Document preparation date</b>	July 7, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

§ 45.1-161.106 of the Code of Virginia (Code) authorizes the Chief of DMME's Division of Mines (Chief), after consultation with the Virginia Coal Mine Safety Board (CMSB), to promulgate regulations necessary to ensure safe and healthy working conditions in underground coal mines in the Commonwealth. Also, §§ 45.1-161.121(C) and 45.1-161.292(B) specifically direct the Chief to promulgate regulations which prescribe the procedure to be followed by underground and surface mine operators in petitioning for approval to conduct mining activities closer than 200 feet to a gas or oil well.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

This regulation is mandated by statute, so it must be maintained. The Chief, in consultation with the CMSB, has determined that this regulation is the least burdensome alternative to meet the purposes set out by the statutes.

**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. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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DMME received two "spam" comments through the Town Hall. The comments did not speak to the regulation and were submitted to advertise various commercial products.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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The Chief, in consultation with the Coal Mine Safety Board, has determined that this regulation is necessary for the protection of public health, safety, and welfare. The regulation is vital to ensuring the safety of underground and surface mines in the Commonwealth. The regulation is clearly written and easily understandable.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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DMME recommends that this regulation stay in effect without change.

**Small business impact**

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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, include a discussion of the agency's*

*determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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As discussed above, this regulation is mandated by statute. In conjunction with the CMSB, the Chief has determined this regulation is effective as currently written and does not burden small businesses.

### Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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This regulation has no direct impact on the institution of the family and family stability.