



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Mines, Minerals, & Energy
<b>Virginia Administrative Code (VAC) citation</b>	4VAC 25-125
<b>Regulation title</b>	Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities
<b>Document preparation date</b>	September 11, 2009

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 36 (2006) 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.*

The Department of Mines, Minerals and Energy (DMME) has authority to promulgate this regulation under authority found in § 45.1-161.3, Powers of the Department, and § 45.1-161.106, Regulations governing conditions and practices at underground coal mines.

- Section 45.1-161.3 empowers DMME, with the approval of the Director, to promulgate regulations necessary or incidental to the performance of duties or execution of powers under Title 45.1 of the Code of Virginia.
- Section 45.1-161.106 of the Code of Virginia empowers the DMME Chief to promulgate regulations as may be necessary to ensure safe and healthy working conditions in underground coal mines in the Commonwealth.
- Section 45.1-161.254 of the Code of Virginia empowers the DMME Chief to promulgate regulations as may be necessary to ensure safe and healthy working conditions in surface coal mines in the Commonwealth.

### 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.*

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The Department considered the alternative of repealing the regulation, but determined that the regulation is still needed to protect public safety, health, and welfare. The agency also considered the alternative of amending the regulation, but determined that no amendments were necessary at this time.

### 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 no public comment in response to the Notice of Periodic Review published in *The Virginia Register*. Parties who have indicated an interest in this regulation were notified by email of the periodic review. The proposed regulation was reviewed internally by DMME. The agency did not form an advisory group to assist in the periodic review based upon perceived lack of controversy and public interest.

### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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DMME interprets the lack of public comment to indicate satisfaction with the regulation, the manner of implementation, clarity and ease of comprehension, and the effectiveness of the regulation.

### Result

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

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The Department of Mines, Minerals and Energy recommends that this regulation should stay in effect without change.

### Family impact

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

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The purpose of this regulation is to ensure that coal stockpiles and bulk storage and handling facilities are designed, maintained, and operated in a safe manner. By ensuring worker safety at these facilities, this regulation enhances the stability of families with members working in or near such facilities.