



Economic Impact Analysis Virginia Department of Planning and Budget

4 VAC 25-130 – Coal Surface Mining Reclamation Regulations
Department of Mines, Minerals and Energy
December 21, 2007

Summary of the Proposed Amendments to Regulation

The Department of Mines, Minerals and Energy (DMME) proposes to amend its Coal Surface Mining Reclamation Regulations to 1) maintain consistency, as mandated by the Code of Virginia, with corresponding federal regulations and 2) allow more flexible standards for forestry reclamation, as recommended by the federal Office of Surface Mining and Reclamation (OSM). DMME also proposes to amend these regulations so that individuals who may be affected by a DMME decision to not inspect have 30 days to request an informal review of that decision.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Currently DMME regulations have very prescriptive requirements for surface mining land reclamation (DMME's current regulations are consistent with older federal regulations that were amended in 2006). Currently replacement topsoil, for instance, must be of uniform depth and streams must be rebuilt in a set way with prescribed replacement rock placement. Also, current regulations require all reclaimed land, except for land which will be used for farming, to have 90% herbaceous ground cover (grass planting).

DMME proposes to amend these regulations so that they are consistent with current federal regulations or current recommendations of OSM. Once these regulations are promulgated, topsoil on reclaimed land will be allowed to vary in depth, stream rebuilding requirements will be more flexible (and will likely require fewer rocks) and all reclaimed land will not be subject to the 90% herbaceous ground cover requirement. Herbaceous ground cover,

in combination with other plantings will have to be sufficient to prevent erosion but will not have to be a prescribed percentage of all planting.

DMME reports that these changes will lead to more successful forest reclamation and more natural stream restoration channels. Eliminating the requirement for uniform topsoil depth, for instance, will eliminate the need for grading equipment to make multiple passes over the same piece of land (until the depth of the soil is uniform). Consequently, topsoil will be less compacted so it will be a better medium for regrowing vegetation. Since herbaceous ground cover can crowd out, and inhibit the new growth of, trees and other forest plants, eliminating the 90% herbaceous ground cover requirement will encourage replanting that will be more likely to turn into forest land. These forests will be much more likely to attract wildlife.

These changes are also very likely to lower costs for regulated entities. DMME reports that new topsoil requirements will reduce the use of grading equipment. This equipment will only have to make one pass over land to be reclaimed rather than the three or more passes that DMME reports are now required. Regulated entities will likely have to purchase less topsoil (or topsoil substitute) on account of the proposed regulations. These entities will also likely have to purchase less grass seed (or seeding services) under the proposed regulations.

Under current regulations individuals who may be affected by a DMME decision to not inspect or take may request an informal review of that decision at any time; DMME has 30 days (from receipt) to respond to such requests. DMME proposes to amend these regulations so that these individuals have 30 days (after an initial decision) to file requests for informal review. DMME reports that affected (or potentially affected) entities currently have 30 days to file formal requests; so this change will insure consistency between informal and formal request procedures. The agency and regulated entities will likely benefit from having agency decisions reviewable for only a finite period. Individuals who feel they are harmed in some way by an agency decision may incur some costs on account of this proposed regulatory change.

Businesses and Entities Affected

DMME reports that there are 60 active surface mines and 120 active underground mines in the Commonwealth. The owners of these mines, as well as individuals who reside around these mines, will be affected by the proposed regulatory changes

Localities Particularly Affected

Localities in Southwestern Virginia, where mines operate, will be particularly affected by these regulatory changes. DMME does not anticipate these localities incurring any costs on account of the regulatory changes.

Projected Impact on Employment

Companies that sell rocks and seeding services to mines will likely see a reduction in mining companies' demand for these goods and services. This reduction is not likely, however, to be of great enough magnitude to significantly impact employment in these fields.

Effects on the Use and Value of Private Property

To the extent that these regulatory changes lower costs, mining operations in the Commonwealth may experience increases in profits.

Small Businesses: Costs and Other Effects

DMME reports that approximately 150 of the 180 mining operations in the Commonwealth qualify as small businesses. None of these businesses are likely to incur any costs on account of the proposed regulatory changes.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to

be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.