



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) citation	4VAC25-145
Regulation title	Regulations on the Eligibility of Certain Mining Operators to Perform Reclamation Projects
Document preparation date	9/5/07

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, § 45.1-230, Authority and duties of Director, and § 45.1-261.1, Operators may perform reclamation.

- 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 45.1-230 of the Code of Virginia empowers the DMME Director to promulgate regulations as may be necessary to carry out the provisions of the Virginia Coal Surface Mining Control and Reclamation Act, chapter 19 of Title 45.1 of the Code.
- Section 45.1-261.1 of the Code of Virginia provides the required findings that the Director shall make in determining whether an operator is eligible to bid on contracts to conduct reclamation projects under the State Reclamation Program and Title IV of the federal Surface Mining Control and Reclamation Act of 1977 (30 USC 1235).

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.

The Department considered the alternative of repealing the regulation, but determined that the regulation is still needed to protect public safety, health, and welfare.

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.

Commenter	Comment	Agency response

No public comment was received. Parties who have indicated an interest in this regulation were notified by email of the periodic review, but none responded to the notification. Based upon the apparent lack of controversy and public interest, the agency determined that it was not necessary to form an advisory group.

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.

The Department of Mines, Minerals and Energy has determined that this regulation is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Result

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

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.

The purpose of this regulation is to protect public safety and welfare by assuring that parties performing reclamation work are qualified to do such work, have adequate financial resources, and have not exhibited a pattern of violations of surface mining and reclamation laws and regulations. These safeguards should enhance the safety and welfare of families in Virginia, and have no negative impact on their stability.