

Virginia Regulatory Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Mines, Minerals and Energy
VAC Chapter Number:	4 VAC 25-101
Regulation Title:	Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells (New)
Action Title:	Preliminary Determination Package (Pre-NOIRA)
Date:	September 27, 1999

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of a new or amended regulation.

The proposed regulation will govern the drilling, equipping and operation of vertical ventilation holes which are used to remove methane gas from underground coal mines. It also will govern the practice of mining near or through a vertical ventilation hole or gas well. Use of vertical ventilation holes affects the safety of underground miners through the removal of explosive methane gas from the mine atmosphere. Safety is also affected by the potential hazards associated with mining activity occurring in close proximity to the vertical ventilation holes and gas wells. Sufficient barrier must be left around the wells to ensure underground miners don't accidentally mine into the wells. The regulations also are necessary to protect the welfare of citizens having interests in the vicinity of a location of a vertical ventilation hole.

The proposed regulation will also streamline the regulatory process, eliminate unnecessary regulatory requirements, clarify language, and implement changes based on the Department of Mines, Minerals and Energy's, mine operators', coal miners' and citizens' experiences in implementing the Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells (4 VAC 25-100). These regulations were last amended in 1991.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and web site addresses, if available, for locating the text of the cited authority should be provided.

The Department of Mines, Minerals and Energy has the legal authority to promulgate this regulation under The Coal Mine Safety Act, Sections 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254 and 45.1-161.292 of the Code of Virginia. Sections 45.1-161.121 and 45.1-161.292 mandate the promulgation of this regulation.

Under the powers of the Department, Sections 45.1-161.3(4) states that the Department has the authority “To promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this title and other relevant chapters, which regulations shall be promulgated by the Department, the Chief, or the Director, as appropriate, in accordance with the provisions of Article 2 (Section 9-6.14:7.1 et seq.) of the Administrative Process Act.”

Sections 45.1-161.106 and 45.1-161.254 provide the Chief with the authority to promulgate rules and regulations necessary to ensure safe and healthy working conditions in underground coal mines and in surface coal mines respectively.

Additionally, Section 45.1-161.121 (C) states that “The Chief shall promulgate regulations which prescribe the procedure to be followed by mine operators in petitioning the Chief for approval to conduct such activities within 200 feet of a gas or oil well or a vertical ventilation hole.”

Finally, Section 45.1-161.292(B) states that “The Chief shall promulgate regulations which prescribe the procedure to be followed by mine operators in petitioning the Chief for approval to conduct such activities closer than 200 feet to a well. A petition may include a request to mine through a plugged well or plugged vertical ventilation hole. A petition may also include a request to mine through a well or vertical ventilation hole and lower the head of such well or vertical ventilation hole.”

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

A copy of the preliminary regulatory language is attached. The potential issues that are to be addressed in the proposed regulation include the following:

- Definitions which are needed to be consistent with the Virginia Gas and Oil Regulation (4 VAC 25-150)
- Provisions for citizens right to object to permit applications
- Requirements for the conversion of coalbed methane gas wells to vertical ventilation holes
- Recordkeeping requirements that are reasonable for the industry to comply with and easy for citizens to understand
- Clear and concise requirements for mining near a gas or oil well or pipeline and mining within 200 feet of a vertical ventilation hole or a gas or oil well or pipeline
- Provisions for mining through a plugged vertical ventilation hole or gas or oil well
- Clear requirements for plugging of vertical ventilation holes

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered and will be considered to meet the essential purpose of the action.

The Department of Mines, Minerals and Energy is proposing to replace the current Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells to incorporate recommendations resulting from the Executive Order Fifteen (94) and Executive Order Twenty-five (98) Reviews and to reflect legislative changes.

The proposed regulation is advantageous to the public because it will ensure that the drilling, equipping and operation of vertical ventilation holes (VVH) used to remove methane gas from underground coal mines is performed safely. Use of VVHs affects the safety of underground miners and citizens having interests in the vicinity of the VVHs through their use to remove the explosive methane gas.

The Department does not believe the proposed regulation will present any disadvantages to the public. The Department worked with its regulatory work committee to develop recommendations requiring the minimal amount of information necessary to ensure industry operations maintain compliance with applicable statutes.

The regulatory work committee which consisted of the Virginia Coal Mine Safety Board and Virginia gas and oil operators considered alternatives to this regulation and believes the proposed regulation is the least burdensome and least intrusive for achieving its essential purpose.