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Regulatory
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Final Regulation Agency Background Document

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) citation	4 VAC 25-125
Regulation title	Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities
Action title	Final Action
Document preparation date	January 5, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Do **not** state each provision or amendment or restate the purpose and intent of the regulation.*

The Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities are designed to ensure the health and safety of mine workers where heavy equipment is used to handle coal and coal related materials on stockpiles and in other bulk material storage facilities with underlying feeders. They will serve to protect mine workers from potential health and safety hazards through the implementation of equipment use procedures and by controlling the use of heavy equipment around coal and material stockpiles and bulk storage and handling facilities located at coal mine facilities that use underlying coal feeders. Regulation of the safe use of equipment associated with coal stockpiles and bulk storage and handling improves the overall health and safety of miners by ensuring the safe use and maintenance of equipment used in conjunction with underground coal mines while encouraging productive mining.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On January 5, 2004, the Chief of the Division of Mines of the Department of Mines, Minerals and Energy adopted these final regulations entitled Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities, 4 VAC 25-125.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

If the final text differs from the text at the proposed stage, please indicate whether the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Section 45.1-161.3 of the Code of Virginia states that the Department has the power to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under Title 45.1 of the Code of Virginia and other relevant chapters. These regulations may be promulgated by the Department, the Chief, or the Director, as appropriate. They must be promulgated in accordance with the provisions of Article 2 (§ [2.2-4007](#) et seq.) of the Administrative Process Act.

Sections 45.1-161.106 and 45.1-161.254 authorize the Chief of the Department of Mines, Minerals and Energy, Division of Mines to promulgate regulations necessary to ensure the safe and healthy working conditions in underground and surface coal mines. Specifically, such regulations are to address the storage or disposal of any matter or material extracted or disturbed as the result of an underground or surface coal mining operation, used in the mining operation, or used for the refinement or preparation of the materials extracted from the coal mining operation.

Section 45.1-161.107 of the Coal Mine Safety Act directs the Chief to consider a number of factors in regulatory development; the federal mine safety law, standards generally recognized by the coal mining industry or set by recognized professional organizations and the results of research and other information that is available regarding the highest degree of protection and the latest technology.

The Code of Virginia, including the above citations may be viewed at <http://leg1.state.va.us>.

The Office of the Attorney General has certified that the Department of Mines, Minerals and Energy has the statutory authority to promulgate the proposed regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This new regulation is designed to help ensure the safe and effective operation and use of heavy equipment on and around coal mine sites where coal is stockpiled and stored. The goal of this final regulatory action will help meet industry and worker needs to improve worker safety on and around coal handling and storage facilities at coal mine sites. The Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities provide worker protection through the implementation of safe working procedures and practices where there were previously none.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities are new regulations designed to ensure the health and safety of mine workers where underlying coal feeders and heavy equipment are used to handle coal and coal related materials. These regulations will serve to protect mine workers from potential health and safety hazards through the implementation of equipment use procedures, by providing guidance on the use of heavy equipment around coal and material stockpiles and bulk storage and handling facilities where underlying coal feeders are used at coal mine facilities, and by establishing safety standards for practices at coal and bulk material storage facilities such as silos, bins, and hoppers.

This regulation was promulgated as a means to help prevent fatal and non-fatal injuries and equipment damage. The regulation was developed with input from the Virginia Coal Mine Safety Board and the federal Mine Safety Health Administration (MSHA).

Industry and government technical information and regulatory guidance used by the federal MSHA and the State of West Virginia were incorporated into the regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*

3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

This final regulatory action addresses differing issues associated with coal mine operations and work performed around stockpiles and storage facilities, resulting in advantages and disadvantages to both the public and to operators of coal mine sites.

Health and safety benefits and cost savings for the public as well as mine operators are end products of a safe work environment. Examples of these would be insurance savings, minimal loss of time from work due to injuries, equipment repair and replacement cost savings. Coal mine workers and operators that are able to work safer and in good health generally are more productive citizens, essentially leading to increased revenue to the worker, the community, and the operator. These all translate into savings and benefits to the Commonwealth.

The Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities set the safety standard for all operators and coal miners to preserve the health and safety of the coal mine worker when operating heavy equipment on coal mine sites. Though this action would be advantageous to operators, mine workers and communities, there is a disadvantage to implementation of the final regulation. This is a one-time cost of equipment to the operator or upgrades to equipment. Incidental costs may surface in the form of training by the operator to its employees.

It is important to note that many operators have presently implemented equipment modifications and implemented changes to policies and procedures prior to this regulation because it adds to a safer work environment. There would be no added cost resulting from the implementation of this final regulation to these mine operators.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

No changes have been made since the regulation was published as proposed. (Section 4 VAC 25-125-30 E 1 was edited to replace the language "with the effective date of this regulation" to the date that will be 30 days from publication in the Virginia Register.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comments were received.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

This is a new regulation; the new sections are the same as the current.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4 VAC 25-125-10	N/A	None	Definitions. Defines specialized words and terms used in this chapter as defined in the Code of Virginia and according to industry standards.
4 VAC 25-125-20.	N/A	None	<p>General Provisions for Coal Stockpiles and on Stockpiles with Underlying Feeders.</p> <p>This section addresses handling of stockpiles of coal through the use of underlying feeders. The underlying feeder is usually a conveyor type, piece of equipment that moves coal from or to a coal storage area, usually a stockpile. The section requires that coal storage areas will be designed and maintained safely and that authorized individuals will visually inspect surrounding ground areas for unsafe conditions.</p> <p>The section also addresses visibility concerns when working around stockpiles. It requires that training should be provided to employees that have specific responsibilities around stockpiles of coal.</p>
4 VAC 25-125-30	N/A	None	<p>Safety Precautions on Stockpiles with Underlying Feeders. This section requires that telephone or equivalent two-way communications shall be established between equipment operators working on stockpiles and those persons who are operating conveyors, feeders, hoppers or</p>

			<p>load out facilities drawing from those stockpiles. Communication shall be maintained in order to keep such equipment operators advised of the possibility of bridged material over a cavity in the stockpile. Contact shall be maintained with the equipment operators during draw down activities (Draw down activities constitute when coal stockpiles have coal siphoned from the base, usually by a feeder/conveyor).</p> <p>The section disallows travel by foot directly on areas of coal stockpiles where underlying feeders are in place, except on an emergency basis; and then only under direct supervision of a certified foreman and when secured by a safety line, with feeders locked and tagged out. Operators will be required to have and post a Stockpile Safety Plan that is approved by the Chief. The plan shall outline procedures to protect the health and safety of mobile equipment operators working on a stockpile or coal storage area directly over an area where underlying coal feeders are in place.</p> <p>The section will also require operators to retro-fit and reinforce equipment doors, windows, frames or supports on equipment that is for stockpile use. The equipment is also required to be fitted with a self rescuer breathing apparatus and remote controls to cease feeder operation in the event of an accident. The requirement for retro-fitting or fitting new equipment or new safety features has the greatest cost impact to the operators, but will save the most lives in the event of an accident.</p> <p>Lastly, specific procedures will be required of equipment operators to prevent inadvertent discharge of material, warning signs will be required to be</p>
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<p>4 VAC 25-125- 40</p>	<p>N/A</p>	<p>None</p>	<p>posted, visual indicators will be required to be used (lights, etc), and two way communications shall be provided.</p> <p>Storage bins, bunkers, hoppers, and silos. Where unconsolidated bulk materials are stored, handled or transported, storage bins, bunkers, hoppers, and silos shall be equipped and maintained with mechanical devices or other effective means of handling materials to prevent entrapment by caving or sliding of materials. This will be done by equipping with supply and discharge operating controls, providing suitable walkways or passageways, and providing proper training and safety equipment for personnel working on and around said areas.</p>
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Impact on family

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The regulation is essential to protect workers by preventing problems, accidents and fatalities in work that is inherently dangerous if not properly controlled. Improper equipment, procedures, conditions, and actions are a significant cause of injuries and fatalities of workers on mine sites where underlying coal feeders are used to handle coal and materials.

The regulation governs working conditions and procedures at coal mines where bulk material is handled and stored. A safe work environment and work practices reduces accidents that may result in reduced family income and increased family stress. Reducing accidents decreases these factors and has positive family impact. Ensuring that workers and operators know how to perform their jobs safely and efficiently has a generally positive effect in areas around coal mines through protection of the public health, safety and welfare from adverse effects of mining operations. The regulation has no effect on family formation, stability, or autonomy.