



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

TO: Benny R. Wampler, Acting Director  
Department of Mines, Minerals and Energy (“DMME” or “Department”)

FROM: Sharon M.B. Pigeon  
Sr. Assistant Attorney General

DATE: October 31, 2008

RE: DMME Proposed Regulations Amending §§ 4 VAC 25-130-816.22, 4 VAC 25-130-816.43,  
4 VAC 25-130-816.116, 4 VAC 25-130-817.22, 4 VAC 25-130-817.43, 4 VAC 25-130-817.116,  
4 VAC 25-130-842.15.

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I have reviewed the referenced legislative draft, as attached, and as proposed by the Division of Mined Land Reclamation (“DMLR”) within the Department of Mines, Minerals and Energy (“DMME”). This amendment is proposed in order to amend Virginia’s Coal Surface Mining Reclamation Regulations to make them consistent with federal regulation on topsoil redistribution and measurement of revegetation success, to allow natural stream restoration design, and to clarify requirements for requesting reviews of decisions by the agency not to inspect or enforce. These proposed amendments will bring the DMLR regulations into alignment with the current federal regulations and will fulfill the federal mandate that the State’s law be consistent with, and no less stringent than, the federal law.

Based on this review, it is my opinion that the proposal is consistent with State law, does not conflict with federal law and is constitutional. These amended regulations are approved as to form. The Department is authorized to enact these proposed amended regulations pursuant to Va. Code §§ 45.1-161.3, 45.1-230, and 45.1-242.

If you require anything more, please advise.

c.c. David Spears