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## Periodic Review Report of Findings

<b>Agency name</b>	Department of Mines, Minerals and Energy
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC 25-125
<b>Regulation title</b>	Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities
<b>Date</b>	August 16, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

*Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

DMME = Department of Mines, Minerals and Energy.

## Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

The authority of the Department of Mines, Minerals and Energy (DMME) is set out in Title 45.1 of the Code of Virginia (Code). § 45.1-161.106 of the Code grants the Chief of DMME's Division of Mines authority, after consultation with Coal Mine Safety Board, to promulgate regulations necessary to ensure safe and healthy working conditions in underground coal mines in the Commonwealth. That section requires regulations related to the storage or disposal of any matter or materials or extracted or disturbed

as the result of an underground coal mining operation. § 45.1-161.254 contains an analogous provision for surface coal mines.

### Alternatives

*Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

As indicated above, these regulations are required by statute. However, the regulations were reviewed to ensure they were clearly worded and the least burdensome option to achieve their purpose.

### 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. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

No public comments were received.

### Effectiveness

*Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

In addition to the statutory requirement, DMME believes the regulation is necessary for the protection of the public health, safety and welfare. The regulation is clearly written and easily understandable.

### Decision

*Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

This regulation satisfies the provisions of the law and legally binding state and federal requirements, and is effective in meeting its goals. The regulation therefore is being retained without amendment.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the*

*agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

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This regulation is required by statute. It is necessary to protect the health and safety of miners working at underground and surface mines in the Commonwealth. DMME has reviewed the regulation and determined that it does not adversely impact small businesses.