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Regulatory
Town Hall

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Final Regulation Agency Background Document

Agency name	Department of Mines, Minerals, & Energy
Virginia Administrative Code (VAC) citation	4 VAC 25 -150
Regulation title	Gas and Oil Regulations
Action title	Amendments regarding the regulation of Gas & Oil
Date this document prepared	November 23, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

As a result of periodic review, the Department of Mines, Minerals and Energy is amending 4VAC25-150, Virginia Gas & Oil Regulation. Sections within 4VAC25-150 will be amended to correct technical areas for accuracy, improve worker safety, and provide clarity. These amendments will aid the gas and oil industry and the Gas & Oil Board in the review and regulation of gas and oil permits. Amending parts of Section 4VAC25-150-150 will reduce workload and increase efficiency for applicants by providing flexibility and economy to the permit process. Section 4VAC25-150-90 will be updated to include symbols that are consistent with current industry usage and available CAD technology. Amendments to sections 4VAC25-150-80, 4VAC25-150-260, 4VAC25-150-300, 4VAC25-150-380, and 4VAC25-150-630 will protect the safety and health of oil and gas industry employees. An amendment to 4VAC25-150-90 is being made to bring consistency to data submission requirements for the Division of Gas & Oil.

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 November 30, 2009, the Department of Mines, Minerals and Energy amended 4VAC25-150, Gas and Oil Regulations.

Legal basis

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

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, § 45.1-361.27, Duties, responsibilities and authority of the Director, and §.

- Section 45.1-161.3 of the Code of Virginia 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 45.1-361.27 of the Code of Virginia empowers the Director to promulgate and enforce rules, regulations and orders necessary to ensure the safe and efficient development and production of gas and oil resources located in the Commonwealth

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.

The Department of Mines, Minerals, and Energy has determined the proposed regulatory amendments to various sections of 4VAC25-150 are necessary to protect the health, welfare, and safety of citizens, reduce workload and increase efficiency for permit applicants. Technical corrections are necessary for accuracy and to provide clear language consistent with state law. These amendments will aid the gas and oil industry and the Virginia Gas & Oil Board in the approval and regulation of gas and oil permits.

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.

As a result of periodic review, the Department of Mines, Minerals and Energy is amending 4VAC25-150, Virginia Gas & Oil Regulation. Sections of 4VAC25-150 will be amended to correct technical areas for accuracy, improve worker safety, and provide clarity. These amendments will aid the gas and oil industry and the Gas & Oil Board in the review and regulation of gas and oil permits.

Amending parts of Section 4VAC25-150-150 will reduce workload and increase efficiency for applicants by providing flexibility and economy to the permit process. Section 4VAC25-150-90 will be updated to include symbols that are consistent with current industry usage and available CAD technology.

Amendments to sections 4VAC25-150-80, 4VAC25-150-260, 4VAC25-150-300, 4VAC25-150-380, and 4VAC25-150-630 will protect the safety and health of oil and gas industry employees.

An amendment to 4VAC25-150-90 is being made to bring consistency to data submission requirements for the Division of Gas & Oil. The use of latitude and longitude and the Virginia Coordinate System of 1927 have been replaced by the Virginia Coordinate System of 1983 in other Division of Gas & Oil regulations. Current industry practice is to use the more modern 1983 coordinate system for describing the locations of wells and core holes. Applicants for permits under this chapter must currently convert their coordinates back to the 1927 system, as required by the regulation, in order to submit them to the Department of Mines, Minerals and Energy’s Division of Gas & Oil. The amendment will allow applicants to use the updated 1983 coordinate system.

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.

These regulatory actions are expected to provide technical corrections, improve clarity, increase efficiency, and to restore consistency with other chapters of regulation. These amendments regarding process will aid the gas and oil industry, as well as the Gas & Oil Board in the review and regulation of gas and oil permits. Reduced workload and increased efficiency for applicants will occur by providing flexibility and economy in the permit process.

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.

Section number	Requirement at proposed stage	What has changed	Rationale for change
260		Deleted last phrase portion of proposed text addition for section D.2.	Concur with the removal of the language added after the regulatory work committees recommendations.

280		Deleted last phrase portion of proposed text addition.	DGO is deleting a portion of the proposed text addition which would have applied to this change.
300		Changed from a proposed 90 day requirement to a 180 day requirement for pit reclamation.	DGO agrees that for 4 VAC 25-150-300, a change to 180 days would be a reasonable compromise that will allow industry to complete pit reclamation in a timely manner, while also setting in place a time line that did not exist previously, this strengthening the regulation.
390		Editing wording in the proposed text addition of section C	Editing section 3 to more agreeable language, but not deleting as requested by VGOA.
420		Changed reference 9 VAC 25-260-230 to updated reference 4 VAC 25-280-70	Prior reference has been repealed.

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.

Commenter	Comment	Agency response
Catherine Jewell Bristol, VA and Juanita Sneeuwjagt, Clintwood, Va (Committee for Constitutional and Environmental Justice)	Summary of Comments: <i>Most comments submitted did not apply to the actual changes being proposed by the agency and were more appropriate of comments that should have been received in the NOIRA stage.</i> ----- 4 VAC 25-150-90 Reference should be made to the other sections of the regs that cover plats (4VAC25-150-510 and 590)– or these should be put together. Change “or” to “and” - “All property lines shown on a plat shall agree with surveys, deed descriptions, <u>AND</u> acreage used in county records for tax assessment purposes.” Otherwise the proposed change does not address the problem (peoples property mapped wrong in the plats)– the operator takes 87.5% of the proceeds from the well – they should bear the burden of	Most comments will be considered for future reviews, as the final stage is too late to consider such in depth suggestions for change that would not be open to proper public comment periods. For clarity, only those comments that directly apply to the proposed changes will be included in this summary. ----- The new language proposed is not a discrepancy issue that plats should address. Acreage used for tax assessment purposes is not always an accurate description of the property, and are often estimates, much like the assessment value for tax purposes could vary greatly from a fair market assessment.

	<p>surveying these tracts. Other states require tracts to be surveyed. The amount of the unit assigned to the royalty owners is based solely on what the operator has in the plats.</p> <p>-----</p> <p>The royalty owners will be paid according to the percentage of the unit assigned to him by the operator for the life of the well . . . <u>You can not protect correlative rights when the acreage assigned is not accurate.</u></p> <p>-----</p> <p>It would be beneficial to the reviewer and well inspector, surface and mineral owners, and the Board to require more information on the well location plat. There is substantial difference between operators on the amount of information included on these plats. Some operators show only the proposed well location and tract boundaries within the unit, while others provide greater detail. The well location plat should, at a minimum, show all information . . .</p> <p>-----</p> <p>4VAC25-150-110 B. Permit modifications – 4. “As appropriate” was inserted this should be removed. Who determines when something is appropriate? K. states the information as appropriate – that should be adequate. Return original wording under 4. “The application shall include, but not be limited to:”</p> <p>-----</p> <p>4VAC25-150-180 It seems the director can issue notices of violations and closure orders – but does not have the authority to levy fines. How is that working out? I found only one fine issued by the board in the 7 years of minutes I searched through. Are there not fines for failure to comply or repeat offences?</p> <p>-----</p> <p>Article 4 Reporting. 90 days is way too generous for reporting. Royalty payments are usually made 45 to 60 days after the last day of production. Owners need to be able to compare their production figures and if the operators are given 90</p>	<p>-----</p> <p>Owners receive notice to participate in all aspects of unit assignments based on proposed plats. Any discrepancy in an owner’s actual ownership and his proposed royalty assignment is contestable as part of this process. There is ample opportunity for correlative rights to be protected through accurate royalty assignments.</p> <p>-----</p> <p>This information is already required for inclusion by 4VAC25-150-90 (plats), conventional gas and oil or injection wells 4VAC25-150-510; coalbed methane gas wells 4VAC25-150-590; or coreholes 4VAC25-150-680.</p> <p>-----</p> <p>The Director determines the appropriate form, as well as initial information needed for permit modification. As appropriate was added because the section includes various items that are separate requirements from section K.</p> <p>-----</p> <p>Fines are not discussed in this section, or review. Determination of who levies fines is statutory</p> <p>-----</p> <p>Production rates for the industry have increased multi-fold since the inception of this time limit. DGO feels that 90 days is an appropriate time</p>
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	<p>days then by the time this information is on line it will have been closer to 4 months. At present there is no enforcement of when production is submitted.</p> <p style="text-align: center;">-----</p> <p>Annual Report Neither the permit application or other fees covers the actual costs to DGO for permitting, inspecting, and other duties. There should be an annual fee of \$50 submitted with every well that was in production during the past calendar year.</p> <p style="text-align: center;">-----</p> <p>4VAC25-150-250 Blasting and explosives It is not clear why this information has been removed and reference made instead to 4VAC25-110. It looks like 4VAC25-110 includes only part of what was crossed out. This section should include blasting conducted as part of seismic explorations where explosives are placed and shot in a borehole to generate seismic waves or use of device containing <u>explosives for perforating a well</u>. The latter info is not included in 4VAC25-110.</p> <p style="text-align: center;">-----</p> <p>It may not occur to the authors of these regulations – but doesn't it seem like a good idea to maybe get the surface owners input into how cleared vegetation will be handled. How about including a statement like: "All cleared vegetation will be handled in accordance with the surface owner(s) directives". Or "instructions as to the disposition/management of all cleared vegetation will be obtained from the surface owner in advance". Much of the timber cleared from property owned by private individuals is left to rot because it is inaccessible to the owner (e.g., placed over a pipeline). Additionally, unsightly piles of brush, stumps and debris are strewn throughout the property.</p> <p>There is no reason <u>whatsoever</u> why topsoil should not be preserved and used to re-vegetate the site . . .</p> <p style="text-align: center;">-----</p> <p>4 VAC 25-150-260</p>	<p style="text-align: center;">-----</p> <p>A full assessment of fees is an item that would need a full regulatory review, and is not appropriate for the final stage of this regulatory review.</p> <p style="text-align: center;">-----</p> <p>Blasting Safety utilizes out of date techniques and instructions. Strikes all numbered sections and direct the use of 4VAC25-110, Regulations Governing Blasting in Surface Mining Operations.</p> <p style="text-align: center;">-----</p> <p>These suggestions have no statutory basis. However, all of these concerns are negotiable through private agreements between the industry and the surface owner. Additionally, if agreements cannot be made, they can be negotiated at the permitting hearings, or addressed in Circuit Court.</p> <p style="text-align: center;">-----</p> <p>No considerations were made to change this section</p>
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	<p>15. The requirements for roads are vague.</p> <p style="text-align: center;">-----</p> <p>The recommendations for 4 VAC 25-150-280, 300, & 340 as proposed do not apply to the proposed changes</p> <p style="text-align: center;">-----</p> <p>4VAC25-150-360 Drilling completion and other reports There is no reason why a company would need 90 days to file a drilling report or completion report – all this does is delay the process.</p> <p style="text-align: center;">-----</p> <p>4VAC25-150-380 Resulting in serious personal injury <u>or death</u> . . .</p> <p style="text-align: center;">-----</p> <p>4VAC25-150-390 Shut in wells The shut-in pressure on wells should be monitored <u>at least monthly</u> and reported to the DGO. Some of these wells are temporarily shut in while development takes place in surrounding areas. Pressure in these wells can become dangerously high and shut in wells have been known to blow and/or cause contamination of aquifers, drinking water supplies and the environment. Many of the wells are located near residents. Records of pressure measurements on non-producing wells shall be maintained for a minimum of 7 years not 2.</p> <p style="text-align: center;">-----</p> <p>4 VAC 25-150-420 “ fluids to be land-applied shall meet the parameters listed in DEQ “Water Quality Criteria for Groundwater (9VAC25-260-230 et. seq). This section does not exist, maybe it should state 9VAC25-280-70.</p> <p style="text-align: center;">-----</p> <p>4VAC25-150-460 Plugging affidavits should be submitted within 30 days and not 90 days</p> <p style="text-align: center;">-----</p> <p>Comments written for 4 VAC 25-150-490, 500, 510, 520, 50, 560, 590, 600, 610, 630, 660, 670, 680, 690, 700, 711, 730, as well as other random comments</p>	<p>of regulation in either the NOIRA or Proposed stages. Comments will be considered in future regulatory reviews.</p> <p style="text-align: center;">-----</p> <p>These comments will be considered for future regulatory reviews.</p> <p style="text-align: center;">-----</p> <p>Production rates for the industry have increased multi-fold since the inception of this time limit. DGO feels that 90 days is an appropriate time</p> <p style="text-align: center;">-----</p> <p>Death would be considered a serious personal injury.</p> <p style="text-align: center;">-----</p> <p>The reporting period was previously not required. DGO feels that once a year is adequate for reporting pressures to the division, and any further requirements would put an undue reporting burden on industry as well as additional paperwork for the division. Industry regularly monitors pressures, even when not required to report to DGO.</p> <p style="text-align: center;">-----</p> <p>Agreed.</p> <p style="text-align: center;">-----</p> <p>DGO feels that 90 days is an appropriate time</p> <p style="text-align: center;">-----</p> <p>Do not apply to the proposed regulatory review recommendations and are additional comments in many cases which can be considered in future reviews.</p>
<p>Jerry Grantham Range</p>	<p>Summary of comments submitted at the public hearing:</p>	

<p>Resources</p> <p>President of the Virginia Oil & Gas Association</p>	<p>VOGA request that the following changes be made to the recently published re-write of the Gas and Oil Regulation (see attached).</p> <ol style="list-style-type: none"> 1) VAC25-150-260- Take out “and copies of any right of way or lease agreements that apply to the abandonment or removal”. 2) VAC25-150-280- Insert “ 1 year” in front of mine plan. 3) VAC25-150-300- Change “90 days” to “180 days”. 4) VAC25-150-390- Eliminate section C entirely. 	<ol style="list-style-type: none"> 1. Concur with the removal of the language, which was added after the regulatory work committees recommendations. 2. DGO is deleting a portion of the proposed text addition which would have applied to this change. 3. DGO agrees that for 4 VAC 25-150-300, a change to 180 days would be a reasonable compromise that will allow industry to complete pit reclamation in a timely manner, while also setting in place a time line that did not exist previously, this strengthening the regulation. 4. Editing section 3 to more agreeable language.
<p>Cathy St. Clair</p> <p>CNX Gas</p>	<p>Summary of comments submitted at the public hearing:</p> <p>CNX agrees with the Virginia Oil & Gas Association and offers full support for the changes recommended by the Department of Mines, Minerals, & Energy’s Division of Gas & Oil.</p>	
<p>Justin Phillips</p> <p>Appalachian Energy Inc.</p>	<p>Summary of comments submitted at the public hearing:</p> <p>Appalachian Energy agrees with the Virginia Oil & Gas Association and offers full support for the changes recommended by the Department of Mines, Minerals, & Energy’s Division of Gas & Oil.</p> <p>Appalachian Energy will submit comments additionally in writing.</p>	
<p>Rocky Stilwell</p> <p>GeoMet</p>	<p>Summary of comments submitted at the public hearing:</p> <p>GeoMet agrees with the Virginia Oil & Gas Association and offers full support for the changes recommended by the Department of Mines, Minerals, & Energy’s Division of Gas & Oil.</p>	
<p>Maurice Royster</p> <p>EQT</p>	<p>Summary of comments submitted at the public hearing:</p> <p>EQT agrees with the Virginia Oil & Gas Association and offers full support</p>	

	<p>for the changes recommended by the Department of Mines, Minerals, & Energy's Division of Gas & Oil.</p> <p>EQT will submit comments additionally in writing.</p>	
<p>Maurice Royster EQT</p>	<p>Summary of comments submitted in writing:</p> <p>4VAC25-150-260 D.2 as amended states that copies of right of way agreement or lease agreement, pertaining to the abandonment or removal of pipelines, shall be provided to DGO. DMME has no jurisdiction over private contracts, therefore would not have the authority to make this a regulatory requirement. EQT opposes this language.</p> <p>4VAC25-150-300 This proposed amendment requires all pits to be reclaimed within 90 days unless a variance is requested and granted by the field inspector. EQT believes that this is an unreasonable requirement and strongly opposes this revision. Going from "No Time Limit" to "90 days" is not beneficial to the industry nor the commonwealth. If a time-frame must be placed on the industry in order to regulate pit closures, EQT recommends that the requirement not be less than 360 days. Drought conditions and excessive precipitation has as much to do with the timing of closing a pit as anything else. EQT believes that 360 days is a reasonable time-frame as long as an extension may be granted by the field inspector if necessary.</p> <p>4VAC25-150-390 C. The proposed amendment in paragraph C stating "A non-producing well shall not remain unplugged for more that a three year period unless approved by the director." will discourage NEW exploratory drilling of the commonwealth's resources. EQT opposes this amendment and believes that this will not promote good conservation practices.</p>	<p>Agreed analysis.</p> <p>A time period of 360 days is too long. DGO has reached a compromise time of 180 days.</p> <p>Many companies has large amounts of unplugged wells that are not producing. There must be a reasonable time frame wherein plugging becomes required.</p>

<p>Ian Landon, Operations Manager</p> <p>Range Resources- Pine Mountain Inc.</p>	<p>Summary of comments submitted in writing:</p> <p>4VAC25-150-260 Agreements are private contracts between operators and land owners and are not regulated by DMME and should not be required for submission.</p> <p>4VAC25-150-280 The DPB Economic Impact Analysis concluded the intent of the language was to require inclination surveys in areas where workers may be present. Propose deletion of language.</p> <p>4VAC25-150-300 The proposed requirement to reclaim pits within 90 days is not adequate. Weather could become a factor. Propose a minimum of 270 days.</p> <p>4VAC25-150-390 The requirement for shut in wells is burdensome and not an adequate time frame for testing new areas for production, which will discourage exploration.</p>	<p>Agreed</p> <p>DGO is deleting a portion of the proposed text addition which would have applied to this change.</p> <p>Variances are allowed by request.</p> <p>This section has been modified to more agreeable language.</p>
<p>Frank Henderson</p> <p>Appalachian Energy</p>	<p>Summary of comments submitted in writing:</p> <p><u>4VAC 25-150-300. Pits.</u> The proposed requirement that all pits shall be reclaimed within 90 days unless a variance is requested and granted by the field director is not practical or reasonable. Operating conditions and not a specific time frame should dictate when pits can be effectively discharged. A 90 day time frame would cause run off problems if weather conditions including frozen or supersaturated ground conditions exist. Historically, certain pits have been kept open in drilling areas where excessive top hole water is anticipated. Utilizing existing drilling pits (which are properly maintained and monitored) is safe, prudent and cost effective for</p>	

	<p>operators.</p> <p>AEI proposes that a minimum of 180 days (after operations using the pit are complete) are afforded an operator to reclaim a pit and that variances be considered and granted when conditions warrant that additional time is required.</p> <p><u>4VAC25-150-390. Shut in wells.</u> Appalachian Energy is in full agreement to provide annual inspection, pressure reporting and future use designation of shut-in wells to the Director of the DGO. We are completely opposed to the unnecessary plugging of any well that does not present a threat to public health, safety or the environment. To consider plugging a well simply because it is shut-in for more than a three year period is contradictory to the legislative charge of the DMME DGO to foster the development and conservation of resources in the Commonwealth.</p> <p>AEI has purchased several shut-in wells which were subsequently returned to production. Although prior economic or other conditions warranted that wells were shut-in, they were returned to production and continue to generate income for AEI, our working interest partners, royalty owners and severance and property tax revenue for the counties.</p> <p>AEI affiliate company Appalachian Production Services, Inc. contract operates several wells in Wise County which were initially drilled by Pittston Coal Co. in the 1950's and remained idle for over 50 years as there were not any pipelines in the area. The wells were subsequently acquired by another Operator and production was initiated in 2002 after pipelines were</p>	
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	<p>constructed. One of these wells has produced over 188,614 mcf since 2002. This is yet another example where shut-in wells were left, idle did not constitute a threat to public health, safety or the environment for over 50 years, and eventually produced significant amounts of natural gas.</p> <p>Furthermore, the 2003 Stronger Review of Virginia’s regulations commended the DGO for “having an overall effective program in place to address both abandoned and orphaned oil and gas well sites.” There was no recommendation for the DGO to plug shut-in wells without cause.</p> <p>AEI proposes that no well be prematurely plugged unless it constitutes a threat to public health, safety or the environment and the threat cannot be remedied by the Operator.</p>	
<p>Gary Slagel CNX</p>	<p>Summary of comments submitted in writing:</p> <p>Proposed change to 90 days for pit reclamation is not realistic to account for seasonal and operational conditions. CNX recommends increasing to 180 days and allow a variance by request.</p>	<p>Agreed</p>
<p>David Porter, Project Development Manager EMI</p>	<p>Summary of comments submitted in writing:</p> <p>Proposed change to 90 days for pit reclamation is not realistic to account for seasonal and operational conditions. CNX recommends increasing to 180 days and allow a variance by request.</p>	<p>Agreed</p>

No comments appeared on the Town Hall.

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
4VAC25-150-10	N/A	Section defines terms used in the regulation	Multiple clarifications and additions to definitions; <i>clarification of terms used</i>
4VAC25-150-60 A.	N/A	A. Where the last day fixed for (i) <u>submitting a request for a hearing, holding a hearing or issuing a decision in an enforcement action under Article 3 (4VAC25-150-170 et seq.) of this part, (ii) submitting a monthly or annual report under Article 4 (4VAC25-150-210 et seq.) of this part, (iii) submitting a report of commencement of activity under 4VAC25-150-230, (iv) submitting a drilling report, a completion report or other report under 4VAC25-150-360, or (v) submitting a plugging affidavit under 4VAC25-150-460</u> falls on a Saturday, Sunday, or any day on which the Division of Gas and Oil office is closed as authorized by the Code of Virginia or the Governor, the required action may be done on the next day that the office is open.	Delete "for a hearing, holding a hearing or issuing a decision in an enforcement action under Article 3 (4VAC25-150-170 et seq.) of this part, (ii) submitting a monthly or annual report under Article 4 (4VAC25-150-210 et seq.) of this part, (iii) submitting a report of commencement of activity under 4VAC25-150-230, (iv) submitting a drilling report, a completion report or other report under 4VAC25-150-360, or (v) submitting a plugging affidavit under 4VAC25-150-460" and add "or any other required report"; <i>clarification that regulation applies to any document due to the agency</i>
4VAC25-150-80 C.	N/A	Affected parties of permit revision are not currently addressed	Adds provision for electronic receipt certified mail; between Section 3 and 4, add requirement to provide notice to affected parties under a permit revision; adds electronic application requirements; <i>clarification</i>
4VAC25-150-90	N/A	Plats	Clarifies plat certification requirements; <i>clarification</i>
4VAC25-150-90 D.1.	N/A	1. The proposed or actual surface elevation of the subject well or corehole shall be shown on the plat, within an accuracy of one vertical foot. The surface elevation shall be tied to either a government benchmark or other point of proven elevation by differential or aerial survey or by <u>trigonometric leveling</u> . The location of the government benchmark or the	After "trigonometric leveling", add "or global positioning satellite (GPS) survey"; <i>technical correction</i>

		point of proven elevation and the method used to determine the surface elevation of the subject well or corehole shall be noted and described on the plat.	
4VAC25-150-90 D.2.	N/A	2. The proposed or actual horizontal location of the subject well or corehole determined by survey shall be shown on the plat. The proposed or actual well or corehole location shall be shown in accordance with the Virginia Coordinate System of 1927, as defined in Chapter 17 (§55-287 et seq.) of Title 55 of the Code of Virginia, also known as the State Plane Coordinate System.	Change the requirements from the Virginia Coordinate System of 1927 to the Virginia Coordinate System of 1983; <i>accuracy of technology used</i>
4VAC25-150-90 D.4.	N/A	Gas and Oil well symbols for plats appear in an outdated format	Update symbols to current industry standard CAD template; <i>technical correction</i>
4VAC25-150-110 A.1.	N/A	1. Standard permit supplements. A permittee shall be allowed to submit a permit supplement when work being performed <u>either</u> : a. Does not change the disturbance area as described in the original permit; or b. Involves activities previously permitted.	Delete "either"; <i>clarification</i>
4VAC25-150-110 A.1.a.	N/A	a. Does not change the disturbance area as described in the original permit; or b. Involves activities previously permitted.	Change "or" to "and"; <i>clarification</i>
4VAC25-150-110 A.2.	N/A	2. Emergency permit supplements. If a change must be implemented immediately due to actual or threatened imminent danger to the public safety or to the environment, the permittee shall:	Clarify between normal and emergency supplements; <i>clarification</i>
4VAC25-150-110 B.4.	N/A	4. Permit modification. The permittee shall submit a written application for a permit modification on a form prescribed by the director. The permittee may not undertake the proposed work until the permit modification has been issued. The application shall	Add, "As appropriate," before "The application shall include, but not be limited to:."; <i>clarification</i>

		include, but not be limited to:	
4VAC25-150-110 B.4.k.	N/A	k. The information, as appropriate, required in 4VAC25-150-500 , 4VAC25-150-560 , or 4VAC25-150-670 .	add, "4 VAC 25-150-720" to list of regulations that contain information required; <i>accuracy</i>
4VAC25-150-120	N/A	Application fee \$65 for transfer of permit rights	Application fee \$75 for transfer of permit rights
4VAC25-150-120 C.	N/A	C. Standards for approval. The director shall <u>not</u> approve the transfer of permit rights <u>unless</u> the proposed new permittee:	strike "not", Strike "unless" and add "when" in it's place; <i>clarification</i>
4VAC25-150-140	N/A	Requirements for notification of affected parties is not currently defined	Add "The director shall notify affected parties of an objection as soon as practicable."; <i>modification</i>
4VAC25-150-150 A.2.	N/A	The statement "any person with standing" is too broad	Clarifies that "any person" is an objecting party or their representative at a permit hearing.
4VAC25-150-150 B.	N/A	B. The director shall, as soon after the hearing as practicable, issue his decision in writing and hand deliver or send the decision by certified mail to all parties to the hearing. The director shall mail the decision, or a summary of the decision, to all other persons given notice of the hearing. The decision shall include:	Limits requirement for notification only to the applicant and any objectors; <i>clarification</i>
4VAC25-150-160 A.	N/A	A. Permits, permit modifications and transfer of permit rights shall be granted in writing by the director.	After, "permit modifications ", insert "permit renewals,"; <i>clarification</i>
4VAC25-150-180 F.	N/A	F. A permittee issued a notice of violation may request, in writing to the director, an informal fact-finding hearing to review the issuance of the notice. This written request <u>should</u> be made within 10 days of receipt of the notice. The permittee may request, in writing to the director, an expedited hearing.	Strike "should" insert "shall"; <i>clarification</i>
4VAC25-150-180 H.	N/A	F. A permittee issued a notice of violation may request, in writing to the director, an informal fact-finding <u>hearing</u> to review the issuance of the notice. This written request should be made within 10 days of receipt of the notice. The permittee may request, in writing to the director, an	Strike first instance of the word "hearing", and add "conference"; <i>clarification</i>

		expedited hearing.	
4VAC25-150-210 A.	N/A	A. Each producer shall submit a monthly report, on a form prescribed by the director or in a format approved by the director, to the division no later than 45 days after the last day of each month.	Delete "45" and insert "90"; <i>modification</i>
4VAC25-150-220 B.	N/A	A certification that bonds on file with the director have not changed is not currently required.	Add section "6" to include a certification that bonds on file with the director have not changed; <i>modification</i>
4VAC25-150-230 B.	N/A	B. A permittee shall notify the division at least two working days prior to commencing ground-disturbing activity, drilling a well or corehole, completing or recompleting a well or plugging a well or corehole. The permittee shall notify the division, either orally or in writing, of the permit number and the date and time that the work is scheduled to commence.	Add exploration of notice period and requirements for re-notification; add requirements for re-notification of commencement of pipeline operations when pipeline is permitted with the well; strike "permit number" insert "operation name"; <i>modification</i>
4VAC25-150-230 C.	N/A	C. For dry holes and in emergency situations, the operator may notify the division within two working days of commencing plugging activities.	Strike "may", insert "shall"; after " the operator may notify the division ", insert "orally or in writing"; clarify emergency situation; <i>clarification</i>
4VAC25-150-250 C-G	N/A	Blasting Safety utilizes out of date techniques and instructions.	Strikes all numbered sections and direct the use of 4VAC25-110, Regulations Governing Blasting in Surface Mining Operations.
4VAC25-150-260 C.1.b.	N/A	b. During construction of the <u>project, topsoil</u> sufficient to provide a suitable growth medium for permanent stabilization with vegetation shall be <u>segregated and stockpiled. Soil stockpiles shall be stabilized</u> in accordance with the standards of subdivisions C 2 and C 3 of this section to <u>prevent erosion and sedimentation</u> .	Strike "of the project, topsoil", insert "soil"; strike "segregated and stockpiled. Soil stockpiles shall be stabilized " and insert "used to stabilize the site"; strike "to prevent erosion and sedimentation"; <i>modification</i>
4VAC25-150-260 D.2.	N/A	2. Each pipeline abandoned in place shall be disconnected from all sources of natural gas or produced fluids and purged.	Clarify the requirements for abandoning pipeline; <i>clarification</i>
4VAC25-150-260 D.5.	N/A	5. If the land disturbed during gas, oil or geophysical operations will not be reclaimed with permanent	Strike "in the operations plan,"; <i>clarification</i>

		vegetative cover as provided for in subsection C of this section, the permittee or applicant shall, <u>in the operations plan</u> , request a variance to these reclamation standards and propose alternate reclamation standards and an alternate schedule for bond release.	
4VAC25-150-280 B	N/A	3. Prior to drilling any borehole into a coal seam in which active mining is being conducted within 500 feet of where the borehole will penetrate the seam, the permittee shall conduct an inclination survey to determine whether the deviation of the bore hole exceeds one degree from true vertical. If the borehole is found to exceed one degree from vertical, then the permittee shall:	Change each instance of “borehole” to “well or corehole”; <i>clarification</i>
4VAC25-150-300 A.1.	N/A	1. Pits are to be temporary in nature and are to be reclaimed when the operations using the pit are complete.	Add "All pits shall be reclaimed within 180 days of completion of operations, unless a variance is granted by the field inspector."; <i>clarification</i>
4VAC25-150-300 B.	N/A	B. Technical requirements. 1. Pits shall be constructed of sufficient size and shape to contain all fluids and maintain a two-foot freeboard. 2. Pits shall be lined in accordance with the requirements for liners in subdivision A 3 of this section. If solids are not to be disposed of in the pit, the permittee may request a variance to the liner specifications.	Move section B1 to new A4; strike current section B; label current section C as section B; <i>modification</i>
4VAC25-150-310 C.	N/A	C. Every permanent tank or battery of tanks shall be surrounded by a containment dike or firewall with a capacity of 1½ times the volume of the single tank or largest tank in a battery of tanks.	Adding language to accommodate double wall tanks and multiple tanks plumbed as one unit; <i>modification</i>
4VAC25-150-340 B.1.	N/A	Not changing requirements; only rearranging order of requirements for clarification	Move section "c" before "If, after a diligent search, a groundwater source"; <i>accuracy</i>
4VAC25-	4VAC25-150-	2. After the water-protection	Insert as new B.1.d. "Drilling water analysis shall

150-340 B.2.	340 B.3.	string is set, permittees may use waters that do not meet the standards of subdivision B 1 of this section.	be taken within one year proceeding the drilling application."; old B2 becomes 3; <i>clarification</i>
4VAC25-150-360 A.	N/A	A. Each permittee conducting drilling shall file, on a form prescribed by the director, a drilling report within 30 days after a well reaches total depth.	Change 30 days to 90 days; <i>modification</i>
4VAC25-150-360 B.	N/A	B. Each permittee drilling a well shall file, on a form prescribed by the director, a completion report within 30 days after the well is completed.	Change 30 days to 90 days; <i>modification</i>
4VAC25-150-380	N/A	Current title of Section is "Accidents"	Change "Accidents" in title to "Incidents"; <i>clarification</i>
4VAC25-150-380 A.	N/A	Current title of section is "Accidents, spills and unpermitted discharges." A. Accidents. A permittee shall, by the quickest available means, notify the director in the event of any fire, blowout, pit failure, hydrogen sulfide release, unanticipated loss of drilling fluids, or other accident resulting in an actual or potential imminent danger to the environment, <u>public safety or welfare</u> . The permittee shall take immediate action to abate the actual or potential danger. The permittee shall submit a written report within seven days of the incident containing: 1. A description of the incident and its cause; 2. The date, time and duration of the incident; 3. A description of the steps that have been taken to date; and 4. A description of the steps planned to be taken to prevent a recurrence of the incident.	Change "accidents" to "incidents"; move first paragraph one line below title header; after "public safety or welfare", add "or results in serious personal injury"; add section 5 to read "other agencies notified"; <i>clarification</i>
4VAC25-150-390	N/A	A. If a well is shut-in or otherwise not produced for a period of 12 consecutive months, the permittee shall measure the shut-in pressure	Strengthen requirements to control shut-in wells by reducing the length of time before pressures must be monitored, defining the frequency and reporting requirements for monitoring, and defining the length of time the well can remain

		on the production string or strings. If the well is producing on the backside or otherwise through the casing, the permittee shall measure the shut-in pressure on the annular space.	shut in without a requirement for plugging; <i>clarification</i>
4VAC25-150-420 D.1.	N/A	1. Fluids to be land-applied shall meet the parameters listed in the Department of Environmental Quality's "Water Quality Criteria for Groundwater" (9VAC25-260-230 et seq.).	1. Fluids to be land-applied shall meet the following criteria: Acidity: <alkalinity Alkalinity: >acidity Chlorides: <5,000 mg/l Iron: <7 mg/l Manganese: <4 mg/l Oil and Grease: < 15 mg/l pH: 6-9 Standard Units Sodium Balance: SAR of 8-12
4VAC25-150-420 D.3. & E	N/A	3. Fluids shall be applied in a manner which will not cause erosion or runoff. The permittee shall take into account site conditions such as slope, soils and vegetation when determining the rate and volume of land application on each site. <u>As part of the application narrative, the permittee shall show the calculations used to determine the maximum rate of application for each site.</u>	Strike, "As part of the application narrative, the permittee shall show the calculations used to determine the maximum rate of application for each site."; Add record retention requirement for injection wells; <i>modification</i>
4VAC25-150-420 E.2.	N/A	2. Each permittee using an off-site facility for disposal of fluids shall use a waste-tracking system to document the movement of fluids off of a permitted site to their final disposition. Records compiled by this system shall be available for inspection on request.	Add a record retention limit, utilizing EPA's record retention requirements as a guide; <i>modification</i>
4VAC25-150-460 B.	N/A	B. A permittee may apply for a variance from the director to use alternate permanent markers. Such alternate markers shall provide sufficient information for locating the abandoned well or corehole. Provisions shall also be made to provide for the physical detection of the abandoned well or corehole from the surface by magnetic or other means.	Add allowance for the burial and remote sensing of a well head; <i>technical correction</i>
4VAC25-	N/A	Current title of section is	Strike "applicability", insert "Conventional Gas &

150-490		“Applicability”	Oil Wells & Class II Injection Wells”; <i>technical correction</i>
4VAC25-150-490 A.	N/A	A. Part II of this chapter sets forth requirements unique to conventional gas and oil wells and wells classified as Class II injection wells by the United States, Environmental Protection Agency under 40 CFR Part 146, Section 146.5.	Strike, "Part II of"; strike "chapter", insert "section"; <i>accuracy</i>
4VAC25-150-490 B.	N/A	B. Permittees must comply with the standards of general applicability in Part I of this chapter and with the standards for conventional gas and oil and Class II injection wells in this part, except that whenever the Environmental Protection Agency imposes a requirement under the Underground Injection Control (UIC) Program, 40 CFR Part 146, Sections 146.3, 146.4, 146.5, 146.6, 146.7, 146.8, 146.22 and 146.23 that governs an activity also governed by this chapter, the Environmental Protection Agency requirement shall control <u>and become part of the permit issued under this chapter.</u>	Strike, "and become part of the permit issued under this chapter"; <i>clarification</i>
4VAC25-150-500	N/A	Current title of section is "Application For A Permit"	After "Application For A Permit", add, "Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-500 A.	N/A	Application for a permit or permit modification are not currently required to submit an explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any area of an active underground coal mine	Add new 4VAC25-150-560A7 below as new section A5; <i>modification</i>
4VAC25-150-510	N/A	Current section title is "Plats"	After "Plats" add ", Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-520	N/A	Current section title is "Setback Restrictions"	After "Setback Restrictions", add add ", Conventional Well or Class II Injection Well" to title; <i>clarification</i>
4VAC25-150-530 E.1.	N/A	1. When a well is drilled through a void, the hole shall be drilled at least 30 feet below the void, the annular space shall be cemented from	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>

		the base of the casing up to the void and to the surface from the top of the void, or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface and be verified by a cement top log.	
4VAC25-150-550	N/A	Current title of section is "Applicability" Part III of this chapter sets forth requirements unique to coalbed methane gas wells. Permittees must comply with the standards of general applicability in Part I of this chapter and with the standards for coalbed methane gas wells in this part.	Strike "applicability", insert "Coal Bed Methane Wells"; strike "Part III of this chapter", insert "This section"; <i>clarification</i>
4VAC25-150-560	N/A	Current title of section is "Application for a permit"	After "Application for a permit", insert "Coal Bed Methane Wells"; <i>clarification</i>
4VAC25-150-560 A.7.	N/A	7. An explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any <u>area of an active underground coal mine</u> ; which shall, at a minimum, require that notice of such drilling be given by the permittee to the mine operator and the Chief at least two working days prior to drilling within 200 feet of or into the mine; and	Strike, "area of an active underground coal mine", insert "active mine" and clarifies term as used; <i>clarification</i>
4VAC25-150-590	N/A	Current title of section is "Plats"	After "Plats", insert "Coal Bed Methane Wells"; <i>clarification</i>
4VAC25-150-590 A.8.	N/A	8. Any inhabited building, highway, railroad, stream, surface mine or mine opening within 500 feet of the proposed well.	Insert "permitted" before "mine opening"; <i>clarification</i>
4VAC25-150-600	N/A	Current title of section is "Setback restrictions"	After "Setback restrictions", insert "Coal Bed Methane Wells"; <i>clarification</i>
4VAC25-150-610 A.1.	N/A	1. Except as provided in subdivision A 5 of this section, the permittee shall set a water-protection string set to a point at least 300 feet below the surface or 50 feet below the <u>lowest</u> groundwater horizon, whichever is deeper,	Strike "lowest", insert "deepest known"; modification

		circulated and cemented to the surface. If cement does not return to the surface, every reasonable effort shall be made to fill the annular space by introducing cement from the surface.	
4VAC25-150-610 E.1.	N/A	1. When a well is drilled through a void, the hole shall be drilled at least 30 feet below the void. The annular space shall be cemented from the base of the <u>casing up to the void, and to the surface from the top of the void</u> ; or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface, and shall be verified by a cement top log.	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>
4VAC25-150-620	N/A	Wellhead equipment and facilities installed on any gob well or on any coalbed methane gas well subject to the requirements of §§ 45.1-161.121 and 45.1-161.292 of the Code of Virginia addressing mining near or through a well shall include, but are not limited to, flame arrestors, back-pressure systems, pressure-relief systems, vent systems and fire-fighting equipment. The director may require additional safety equipment to be installed on a case-by-case basis.	Add language to distinguish treatments in active mines from wells in abandoned mines; <i>clarification</i>
4VAC25-150-630	N/A	Current section title is "Report of produced waters"	After "Report of produced waters", insert "Coal Bed Methane Wells"; <i>clarification</i>
4VAC25-150-630	N/A	All coalbed methane gas well operators are required to submit monthly reports of total produced waters withdrawn from coalbed methane gas wells, in barrels, on a well-by-well basis, with the monthly report submitted under 4VAC25-150-210 of this chapter. The report shall show monthly produced water withdrawals and cumulative produced water withdrawals.	Add a record retention limit, utilizing EPA's record retention requirements as a guide; <i>clarification</i>
4VAC25-	N/A	Section title is "Abandonment"	Title change to "Conversion of a coalbed methane"

150-650		through conversion to a vertical ventilation hole”. A permittee wishing to abandon a coalbed methane gas well as a vertical ventilation hole shall submit an application for a permit modification which includes approval from the chief of the Division of Mines.	well to a vertical ventilation hole”; Clarify the process for conversion; <i>clarification</i>
4VAC25-150-660	N/A	Current section title is "Applicability"	After "Applicability", insert "Ground Disturbing Geophysical Activity"; clarify the regulation as it pertains to core holes; <i>clarification</i>
4VAC25-150-670	N/A	Current section title is "Application for a permit"	After "Application for a permit", Insert "Geophysical Activity or Core Holes"; <i>clarification</i>
4VAC25-150-670 B.	N/A	Application for a permit or permit modification are not currently required to submit an explanation of the procedures to be followed to protect the safety of persons working in an underground coal mine for any coalbed methane gas well to be drilled within 200 feet of or into any area of an active underground coal mine.	Add new 4VAC25-150-560A7 below as new section B5; <i>modification</i>
4VAC25-150-680	N/A	Current section title is "Plats"	After "Plats" , insert "Core Holes" in title; <i>clarification</i>
4VAC25-150-680 A.5.	N/A	5. Any inhabited building, highway, railroad, stream, surface mine or mine opening within 500 feet of the proposed corehole.	Insert "permitted" before "surface mine"; insert "permitted" before "mine opening"; <i>clarification</i>
4VAC25-150-690	N/A	Current section title is "Operation Plans"	After "Operation Plans", insert "Ground Disturbing Geophysical Activity and Core Holes"; <i>clarification</i>
4VAC25-150-700	N/A	Current section title is "Set Back Restrictions"	After "Set Back Restrictions", insert "For Core Holes"; <i>clarification</i>
4VAC25-150-711	N/A	Current section title is “Voids and lost circular zones”	Change title, "circular" to "circulation"; <i>accuracy</i>
4VAC25-150-711 A.1.	N/A	1. When a corehole is drilled through a void, the hole shall be drilled at least 30 feet below the void. The annular space shall be cemented from the base of the casing up to the void and to the surface from the top of the void; or it shall be cemented at least 50 feet into the next higher string or strings of casing that are cemented to the surface and be verified by a cement top log.	After "casing up to the void", add "every reasonable attempt shall be made to fill the annular space from the top of the void to the surface"; strike "and to the surface from the top of the void"; <i>clarification</i>
4VAC25-	N/A	Current section title is	Strike "applicability" in title and insert "Gathering

150-720		"Applicability"	Pipelines"; <i>clarification</i>
4VAC25-150-730	N/A	Current title of section is "General Requirements" Section regulates gathering pipeline	After "General Requirements", insert "for Gathering Pipelines"; Total rewrite of section to expand regulation of gathering pipeline is needed; <i>modification</i>
4VAC25-150-740	N/A	Current section title is "Operations plans"	After "Operations plans", insert "for Gathering Pipelines"; <i>clarification</i>
4VAC25-150-750	N/A	Current section title is "Inspections"	After "Inspections", insert "for Gathering Pipelines"; <i>clarification</i>

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

No other alternative would meet the essential purposes of the proposed regulatory actions.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory actions will have no impact on the family or family stability.