



Final Regulation Agency Background Document

Agency name	Department of Mines, Minerals & Energy
Virginia Administrative Code (VAC) citation	4 VAC 25-150
Regulation title	Virginia Gas and Oil Regulation
Action title	Amendments regarding the regulation of gas and oil
Date this document prepared	May 20, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 107 (2009) and 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 (DMME) is amending the Virginia Gas and Oil Regulation. Sections within the regulation will be amended to enhance accuracy and clarity. The amendments will aid DMME's Division of Gas and Oil (DGO) and industry in the review of gas and oil permits by enhancing industry employee safety, reducing workload and increasing efficiency in the permitting process. The regulation will be updated to include symbols that are consistent with current industry usage and available CAD technology. Minor changes were made since publication of the proposed regulation. These changes should enhance clarity.

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 May 20, 2011, DMME adopted a final regulation entitled the Virginia Gas and Oil Regulation.

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 Director of DMME has the authority to promulgate this regulation generally under § [45.1-161.3](#) and specifically under § [45.1-361.27](#) of the Code of Virginia. DMME is not mandated to promulgate this regulation, but it is 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 existing regulation contains obsolete features and imprecise language. The amendments to the regulation correct these flaws. Also, this regulation will enhance the permit application process and make it more efficient. Finally, the new regulation contains several safety enhancements. For these reasons, the amendments are necessary and enhance the health, safety and welfare of citizens.

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 amendments will ensure the language of the regulation reflects current industry usage and technology. Technologically obsolete elements are removed and replaced with language that reflects modern practices. Worker and citizen safety is enhanced throughout the regulation as well. For example, "red zones" are defined in the regulation and permittees are required to install signs marking these areas.

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.

The primary advantages to the public are reflected in a more precisely crafted regulation that better reflects current industry practice and technology. The amended regulation will also increase efficiency, worker safety and public health. There are no disadvantages.

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
4 VAC 25-150-10	No definition of “Division Director”	“Division Director” now defined	This definition is added for clarity and for consistency with other Department regulations.
150 C	...receiving notice of the permit.	"Permit" is changed to "application."	"Application" is more precise as this section refers to the actions taken when an application for a permit is denied.
260 D 2	and copies of any right of way or lease agreements that apply to the abandonment or removal.	Language stricken.	DMME does not need a copy of these agreements.
300	All pits shall be reclaimed within 90 days.	Time period changed from 90 to 180 days.	DMME believes 90 days is an insufficient time for pit reclamation. The existing language does not mandate a specific time period so the amended language still strengthens the overall regulation.
340	Reference to repealed section 9 VAC 25-260-230	Cite changed to correct section: 9 VAC 25-280-70	This change is necessary to reflect the correct section.
390	Should the well remain in a nonproducing status for a period of two years, the permittee shall submit either a well plugging plan or a future well production plan to the director. A non-producing well shall not remain unplugged for more than a three-year period unless approved by the director.	The sentence is modified to read: Should the well remain in a nonproducing status for a period of two years, the permittee shall submit a plan for future well production to the director. A non-producing well shall not remain unplugged for more than a three-year period unless approved by the director.	The modified language more clearly defines the permittee’s responsibility with respect to nonproducing or unplugged wells.
420	Reference to repealed section 9 VAC 25-260-230	Cite changed to correct section: 9 VAC 25-280-70	This change is necessary to reflect the correct section.

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.

Committer	Comment	Agency response
<p>Catherine Jewell Bristol, VA</p> <p>and</p> <p>Juanita Sneeuwjagt, Clintwood, Va (Committee for Constitutional and Environmental Justice)</p>	<p>Summary of Comments: -----</p> <p>Clarify in these regulations that the Director refers to the Director of the Division of Gas and Oil or insert the definition for Division Director and change all places where reference is made to the Director to "Division Director" where appropriate. -----</p> <p>The definition for a "Gob well" should be changed to "a well drilled or vent hole converted to a well which produces or is capable of producing coalbed methane or other natural gas from a distressed zone created above and below a mined-out coal seam by any prior full seam extraction of the coal. Such a well is regulated as coalbed methane wells" -----</p> <p>4 VAC 25-150-80 All pages in the application including all forms and plats should be of the original size and not reduced. The application should spell out accurately all grounds by which those required to be notified can object. -----</p> <p>Power poles and lines that are installed to/from the well site is an Associated Facility- the permits fail to address these. What authority oversees these installations? -----</p> <p>I assume that the permit applications and plats will be submitted in hard copy in addition to</p>	<p>-----</p> <p>A definition of "Division Director" has been added for clarity and to maintain consistency with other Department regulations. -----</p> <p>The existing definition identifies a gob well as a coalbed methane well. -----</p> <p>Operators must submit one original plat at scale, but they are allowed to submit reduced size copies. -----</p> <p>The public utility in that region or the State Corporation Commission or generally oversees the installations. -----</p> <p>Hard copies are no longer required. DGO possesses sufficient resources to generate any copies that may be needed during the permit</p>

	<p>the electronic form. You may want to clarify this so that the burden of making the hardcopy will lie with the application and not the DGO.</p> <p>-----</p> <p>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.</p> <p>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 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. 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</p>	<p>review process. Modern software technology allows plats to be digitally signed, of scale and verified.</p> <p>-----</p> <p>Those references are contained in subsection E.</p> <p>The acreage shown on county or city tax records is not subject to jurisdiction by the Board. The Board has no authority to address the accuracy of county or city records. The Board regulation requires the acreage to be certified by a licensed land surveyor or licensed professional engineer to ensure accuracy of the information.</p> <p>-----</p> <p>In addition to the requirements of 4 VAC 25-150-90, much of this information is already required for inclusion on plats for conventional gas and oil or injection wells (4 VAC 25-150-510); coalbed methane gas wells (4 VAC 25-150-590); or coreholes (4 VAC 25-150-680).</p> <p>-----</p> <p>The Director determines the appropriate form, as well as initial information needed for permit modification. As appropriate was added</p>
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	<p>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 style="text-align: center;">-----</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 style="text-align: center;">-----</p> <p>Article 4 Reporting. 4 VAC 25-150-210 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 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>4 VAC 25-150-220 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>-----</p> <p>Reference should be made to 4 VAC 25-150-630 and other parts of the regulations that cover reporting</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</p>	<p>because the section includes various items that are separate requirements from section K.</p> <p style="text-align: center;">-----</p> <p>The commenter is correct that the Gas and Oil Act does not grant the Director authority to levy fines. Civil penalties can be levied by the appropriate circuit court or the Board under § 45.1-361.8 of the Code.</p> <p style="text-align: center;">-----</p> <p>Production rates for the industry have increased multi-fold since the inception of this time limit. DMME feels that 90 days is an appropriate timeframe.</p> <p style="text-align: center;">-----</p> <p>DMME’s budget is sufficient to fund DGO under the new state biennial budget. The Governor’s budget includes increased permit fees for the division that will in-part, replace reduced state general funds.</p> <p style="text-align: center;">-----</p> <p>The reports required in 4 VAC 25-150-630 are monthly reports. The reports specified in this section must be filed annually</p> <p style="text-align: center;">-----</p> <p>The existing regulation utilizes out of date techniques and instructions. 4 VAC25-110, Regulations Governing Blasting in Surface Mining Operations reflects current</p>
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	<p>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 15. The requirements for roads are vague.</p> <p style="text-align: center;">-----</p> <p>4 VAC 25-150-280 Are the drillers log interpreted and all strata, coal seams, aquifers clearly identified? This information is not only important to the driller but to the property and mineral owner – it is also the basis for assessing mineral taxes on the tract.</p>	<p>industry practice and technology. Such standards are continually reviewed to improve known best practices in the field.</p> <p style="text-align: center;">-----</p> <p>All of these concerns are negotiable through private agreements between the permittee and the surface owner. These regulations establish the minimum standards for erosion and sediment control. Measures in addition to these minimums may be provided for in leases, deeds, or other agreements.</p> <p style="text-align: center;">-----</p> <p>Road requirements are not amended in this regulatory action. Comments will be considered in future regulatory reviews.</p> <p style="text-align: center;">-----</p> <p>Drillers logs are submitted to the division and available for public inspection upon request. The exception would be if the company requests such logs to remain confidential.</p> <p style="text-align: center;">-----</p> <p style="text-align: center;">-----</p>
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	<p>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>DGO believes that 90 days is an appropriate time</p>
<p>Jerry Grantham Range Resources President of the Virginia Oil & Gas Association</p>	<p>Summary of comments submitted at the public hearing:</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. This language has been deleted as DMME does not need copies of these documents. 2. The clause referred to has been deleted for reasons listed above. 3. Pits are required to be reclaimed within 180 days as discussed above. 4. The amended language allows permittees to seek approval from the Director to keep a well unplugged for more than a three year period. Commenters suggested that shut-in wells may have economic value beyond the three year period proposed, and DMME believes allowing approval of a production plan strikes the appropriate balance between economic development and environmental protection.
<p>Cathy St. Clair 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>No response needed.</p>
<p>Justin Phillips 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>No response needed.</p>
<p>Rocky Stilwell GeoMet</p>	<p>Summary of comments submitted at the public hearing:</p> <p>GeoMet agrees with the Virginia Oil</p>	<p>No response needed.</p>

	<p>& 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 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 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>No response needed.</p>
<p>Maurice Royster EQT</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>This language has been stricken from the final regulation.</p> <p>Pits are required to be reclaimed within 180 days as discussed above.</p>

	<p>4VAC25-150-390: C. The proposed amendment in paragraph C stating "A non-producing well shall not remain unplugged for more than 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>The amended language allows permittees to seek approval from the Director to keep a well unplugged for more than a three year period. This language strikes the appropriate balance between economic development and environmental protection.</p>
<p>Ian Landon, Operations Manager Range Resources- Pine Mountain Inc.</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>This requirement has been stricken from the final regulation.</p> <p>DGO is deleting a portion of the proposed text addition which would have applied to this change.</p> <p>DMME agrees that conditions may prohibit reclamation within the specified time. The language has been revised to allow variances to be granted by request.</p> <p>This section has been modified to allow for more flexible well operation.</p>
<p>Frank Henderson Appalachian Energy</p>	<p>4VAC 25-150-300: 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</p>	<p>In the final regulation, pits are now required to be reclaimed within 180 days. Variances can be granted by request.</p>

	<p>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 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>4VAC25-150-390:</p> <p>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</p>	<p>The amended language allows permittees to seek approval from the Director to keep a well unplugged for more than a three year period. This language strikes the appropriate balance between economic development and environmental protection.</p>
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	<p>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 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</p> <p>CNX</p>	<p>4 VAC 25-150-300:</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>In the final regulation, pits are now required to be reclaimed within 180 days. Variances can be granted by request.</p>

<p>David Porter, Project Development Manager</p> <p>EMI</p>	<p>4 VAC 25-150-300:</p> <p>Technically and logistically it is our experience that compliance with this proposed regulation would be nearly impossible for a significant portion of the pits that EMI is responsible for, within the 90 day time period. Factors such as inclement weather and multiple treatment excursions to meet water quality standards, often delay pit disposal beyond the proposed time limit. Furthermore, we would strongly support extending the time limit to a minimum of 180 days. It is our position that this would represent a more reasonable requirement.</p>	<p>In the final regulation, pits are now required to be reclaimed within 180 days. Variances can be granted by request.</p>
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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
4 VAC 25-150-10	N/A	Section defines terms used in the regulation.	Definitions are added for “applicant”, “board”, “division director”, “petitioner”, and “red zone”. Other definitions are modified to enhance clarity.
4 VAC 25-150-60 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</u>	Adding the phrase “or any other required report” and deleting the language associated with each individual report submission results in a much clearer, easier to understand regulation. This is not a substantive change.

		<p><u>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.</p>	
4 VAC 25-150-80 C.	N/A	Affected parties of permit revision are not currently addressed	The amended language requires permittees to notify affected parties when a permit modification is filed. This language will clarify requirements permittees must meet. Language is also added requiring electronic filing of all permit applications. These changes enhance clarity and efficiency for regulated entities.
4 VAC 25-150-90A	N/A	Plat Requirements	The amended language clarifies the requirement that the plat be large enough to adequately reflect the unit approved by the Virginia Gas and Oil Board.
4 VAC 25-150-90B	N/A	Plat Requirements	Language is added to ensure all property lines shown on the plat agree with surveys, deed descriptions, and acreages used in county records for tax assessment purposes. This language is necessary to ensure DGO has accurate information to make the appropriate determination on a permit application.
4VAC25-150-90 D.1.	N/A	<p>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 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.</p>	Language is added allowing GPS technology to be used in determining actual surface elevation of the subject well or corehole. The amendment is necessary to ensure the regulation continues to reflect existing technology.

4VAC25-150-90 D.4.	N/A	Gas and Oil well symbols for plats appear in an outdated format	The amended language is necessary to ensure the regulation reflects current industry technology.
4 VAC 25-150-100B	N/A	Operations plans requirements	Language is added to require applicants to identify red zone areas on operation plans. This will ensure potential safety hazards are adequately identified.
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; <u>or</u> b. Involves activities previously permitted.	The amendment deletes "either" and "or" and inserts "and", requiring both conditions to be met before a permit supplement can be submitted.
4 VAC 25-150-110A	N/A	The permittee shall submit written documentation of the changes made to the permitted area within seven working days after completing the change.	Under the amended regulation, permittees will now have 30 days to submit written documentation.
4VAC25-150-110 A.2.	N/A	Emergency permit supplements.	The added language clarifies actions a permittee shall take when an area off the permit is affected due to an emergency. The permittee is allowed to take immediate actions that are temporary and absolutely necessary.
4VAC25-150-110 B.4.	N/A	Applications for permit modifications.	A minor technical change is made for clarification.
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 .	The amended language adds a citation to the regulations that govern gathering pipelines.
4VAC25-150-120	N/A	Application fee \$65 for transfer of permit rights	Under the amended regulation, the application fee shall be \$75.
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:	The amended language strikes "not" and "unless" and adds "when" in the latter's place for clarity.
4 VAC 25-150-135	N/A	Upon receipt of notice, any person may, on a form approved by the director, waive the time requirements and their right to object to a proposed permit application. The department shall be entitled	The word "department" is stricken and replaced with "division".

		to rely upon the waiver to approve the permit application.	
4VAC25-150-140	N/A	Requirements for notification of affected parties is not currently defined	The amended language now specifies that affected parties shall be notified by the director as soon as practicable.
4VAC25-150-150 A.1	N/A	The citation to the Administrative Process Act is incorrect.	The amended language corrects the citation.
4VAC25-150-150 B and C.	N/A	Written notice requirements regarding permit issuance.	The amended language requires the director to notify all noticed persons only when the permit application is denied.
4VAC25-150-160	N/A	A. Permits, permit modifications and transfer of permit rights shall be granted in writing by the director.	The amended language requires permit renewals to be granted in writing.
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.	The amended language replaces “should” with “shall”, requiring permittees to request an informal fact-finding review in writing.
4VAC25-150-180 H.	N/A	The citation to the Administrative Process Act is incorrect.	The amended language corrects the citation.
4VAC25-150-190 I.	N/A	The citation to the Administrative Process Act is incorrect.	The amended language corrects the citation.
4 VAC 25-150-200	N/A	Show cause orders	Minor technical changes are made to citations.
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.	Producers now have 90 days to submit required production reports.
4VAC25-150-220 B.	N/A	A certification that bonds on file with the director have not changed is not currently required.	Requiring permittees in their annual reports to certify that bonds on file have not been changed will help ensure transparency with respect to required filings.
4VAC25-150-230 B.	N/A	B. A permittee shall notify the division at least two working days prior to commencing ground-	The amended language clarifies the requirements of permittees when ground-disturbing activities do not take place when originally scheduled. Permittees are required

		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.	to make every effort to notify DGO when the activities are rescheduled.
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.	The amended language strengthens the regulation by requiring operators to notify DGO within 48 hours of commencing plugging activity for dry holes and emergency situations.
4 VAC 25-150-240 C	n/a	The existing regulation has no requirements for red zone signs.	The amended language requires signs designating red zone areas to be installed and maintained by the permittee.
4VAC25-150-250 C-G	N/A	Blasting Safety utilizes out of date techniques and instructions.	The amended language deletes obsolete blasting regulations and cites the technologically current regulations found in 4 VAC 25-110, Regulations Governing Blasting in Surface Mining Operations.
4VAC25-150-260 C.1.b.	N/A	Erosion, sediment control and reclamation.	The amended language clarifies soil requirements for stabilization.
4VAC25-150-260 D.2.	N/A	Final reclamation standards	The amended language more clearly establishes the requirements for the disconnection of gathering pipelines.
4VAC25-150-260 D.5.	N/A	5. If the land disturbed during gas, oil or geophysical operations will not be reclaimed with permanent 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.	Unnecessary language, "in the operations plan" is deleted.
4VAC25-150-280	N/A	Logs and surveys	Throughout this section, the term "borehole" is replaced with "well or corehole."
4 VAC 25-150-280 B 3.	N/A	Inclination survey requirements	The amended language clarifies the requirement of an inclination survey when the permittee seeks to drill a well or corehole within 500 feet of a coal seam where workers are assigned or travel, or any connected seal or gob areas.
4VAC25-	N/A	General requirements for	The amended language requires all pits to be

150-300 A.1.		pits.	reclaimed within 180 days of completion of operations. No such requirement exists in the current regulation.
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.	Section B.2. is deleted as it is redundant.
4VAC25-150-310 C.	N/A	Tank Requirements	The amended language clarifies the secondary containment requirements.
4 VAC 25-150-340 B 1 b (2)	N/A	The section cites a repealed DEQ regulation	The amended language provides the correct citation.
4VAC25-150-340 B.1 b (2).	N/A	The current regulation does not specify when water quality analysis must take place.	The new language specifies the analysis shall be taken within one year proceeding the drilling application. This addition is necessary to help protect water quality.
4VAC25-150-360	N/A	Drilling report requirements	The amended language allows permittees to submit required reports electronically and also allows them 90 days to submit said reports.
4VAC25-150-380	N/A	Current title of Section is "Accidents"	The amended language changes "Accidents" in title to "Incidents".
4VAC25-150-380 A.	N/A	Incident report requirements.	The amended language adds unplanned off-site disturbances and serious personal injuries to the list of incidents that require reporting to DGO. The permittee will also have the option of submitting the incident report electronically. Language is also added requiring the permittee to indicate other agencies notified in the report.
4VAC25-150-390	N/A	Shut-in well reporting requirements.	The amended language requires annual reports to DGO when a well is shut-in or otherwise nonproducing for 12 consecutive months. If the well is nonproducing for two years, the permittee is required to submit a plan for future production to the director.
4VAC25-150-420 D.1.	N/A	On-site disposal of fluids	The amended language sets out the specific requirements for fluid composition to maintain groundwater quality.
4VAC25-150-420 E	N/A	Off-site disposal of fluids	The amended language requires permittees to file an annual report with DGO regarding the movement of fluids off of a permitted site

			to their final disposition. These reports shall be retained until the site is reclaimed and the accompanying bond is released.
4VAC25-150-460 B.	N/A	Identifying abandoned wells	The amended language allows permittees to utilize GPS technology when applying for a variance to use alternate permanent markers for abandoned wells and coreholes.
4VAC25-150-490	N/A	Current title of section is "Applicability"	"Conventional Gas & Oil Wells & Class II Injection Wells" is added to the section title for precision.
4VAC25-150-490 B.	N/A	Standards of general applicability.	The amended language strikes the unnecessary language "and become part of".
4VAC25-150-500	N/A	Current title of section is "Application For A Permit"	"Conventional Well or Class II Injection Well" is added to the section title for precision.
4VAC25-150-500 A5	N/A	Permit application requirements.	The amended language requires permittees to explain safety procedures when a well is to be drilled within 200 feet of areas where workers are working in and around an underground coal mine. The permittee is also required to give notice to the mine operator and the Chief of the Division of Mines at least 10 working days prior to drilling.
4VAC25-150-510	N/A	Current section title is "Plats"	"Conventional Well or Class II Injection Well" is added to the section title for precision.
4 VAC 25-150-510 A. 8	N/A	Plat requirements	The amended language clarifies that permitted surface mines or mine openings must be shown on the plat.
4VAC25-150-520	N/A	Current section title is "Setback Restrictions"	"Conventional Well or Class II Injection Well" is added to the section title for precision
4VAC25-150-530 E.1.	N/A	Requirements for casing through voids.	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>
4VAC25-150-550	N/A	Current title of section is "Applicability"	"Coalbed methane wells" is added to the section title for precision
4VAC25-150-560	N/A	Current title of section is "Application for a permit"	"Coalbed methane well operations" is added to the section title for precision
4VAC25-150-560 A.7.	N/A	Permit application requirements	The amended language requires permittees to explain safety procedures when a well is to be drilled within 200 feet of areas where workers are working in and around an underground coal mine. The permittee is also required to give notice to the mine operator and the Chief of the Division of Mines at least 10 working days prior to drilling.
4VAC25-150-590	N/A	Current title of section is "Plats"	"Coalbed methane wells" is added to the section title for precision
4VAC25-150-590 A.8.	N/A	Plat requirements	The amended language clarifies that permitted surface mines or mine openings must be shown on the plat.

4VAC25-150-600	N/A	Current title of section is "Setback restrictions"	"Coalbed methane wells" is added to the section title for precision
4VAC25-150-610 A.1.	N/A	Water protection string requirements.	The amended language clarifies the measurement necessary to determine the proper length of the water protection string.
4VAC25-150-610 E.1.	N/A	Requirements for casing through voids.	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.	The amended language specifies that a safety precaution plan be submitted to the director for approval.
4VAC25-150-630	N/A	Current section title is "Report of produced waters"	"Coalbed methane wells" is added to the section title for precision.
4VAC25-150-630	N/A	Requirements for report of produced waters.	The amended language requires permittees to file an annual report with DGO regarding the total produced waters withdrawn from coalbed methane wells. These reports shall be retained until the well is abandoned and reclaimed.
4VAC25-150-650	N/A	Section title is "Abandonment through conversion to a vertical ventilation hole".	The amended language changes the section title to "Conversion of a coalbed methane well to a vertical ventilation hole."
4 VAC 25-150-650	N/A	Requirements for conversion of coalbed methane well.	The amended language requires permittees to obtain approval from the Chief of the Division of Mines and submit a written request to DGO for a permit release. This is to ensure worker safety. The Chief and the DGO Director shall consult before the permit release is approved.
4VAC25-150-660	N/A	Current section title is "Applicability"	"Ground Disturbing Geophysical Activity"; is added to the section title for precision.
4VAC25-150-670	N/A	Current section title is "Application for a permit"	"Geophysical Activity or Core Holes" is added to the section title for precision.
4VAC25-150-670	N/A	Permit application requirements.	The amended language requires permittees to explain safety procedures when a well is to

B.			be drilled within 200 feet of areas where workers are working in and around an underground coal mine. The permittee is also required to give notice to the mine operator and the Chief of the Division of Mines at least 10 working days prior to drilling.
4VAC25-150-680	N/A	Current section title is "Plats"	"Core Holes" is added to the section title for precision.
4VAC25-150-680 A.5.	N/A	Plat requirements	The amended language clarifies that permitted surface mines or mine openings must be shown on the plat.
4VAC25-150-690	N/A	Current section title is "Operation Plans"	"Core Holes" is added to the section title for precision.
4VAC25-150-700	N/A	Current section title is "Set Back Restrictions"	"Core Holes" is added to the section title for precision.
4VAC25-150-711	N/A	Current section title is "Voids and lost circular zones"	"Circular" is changed to the more precise "circulation".
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>
4VAC25-150-720	N/A	Current section title is "Applicability"	"Gathering Pipelines" is added to the section title for precision.
4VAC25-150-730	N/A	Current title of section is "General Requirements"	"Gathering Pipelines" is added to the section title for precision.
4 VAC 25-150-730B	N/A	Requirements for issuance of a permit for a gathering pipeline.	The amended language prohibits gathering pipeline from being installed within 100 feet of any inhabited building or railway. This change enhances safety.
4VAC25-150-740	N/A	Current section title is "Operations plans"	"Gathering Pipelines" is added to the section title for precision.
4VAC25-150-750	N/A	Current section title is "Inspections"	"Gathering Pipelines" is added to the section title for precision.

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 purposes of the proposed regulatory action. Establishing less stringent requirements would not address the issues of obsolete or imprecise language. The regulatory advisory panel worked diligently to ensure the least restrictive means were adopted while simultaneously meeting DMME's statutory objectives. The amendments will have no effect upon small businesses.

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 regulation will have no impact on the institution of the family or family stability.