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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) Chapter citation(s)	4 VAC 25 – 90
VAC Chapter title(s)	Rules and Regulations Governing the Use of Diesel Powered Equipment in Underground Coal Mines
Date this document prepared	July 1, 2020

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

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DMME- Department of Mines, Minerals and Energy
Code- Code of Virginia
CMSB- Coal Mines Safety Board
Chief – Chief of DMME's Division of Mines

Legal Basis

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

[§ 45.1-161.3](#) (4) and [§ 45.1-161.106](#) A of the Code of Virginia (Code) authorize the Chief of DMME's Division of Mines (Chief), in consultation with the Coal Mine Safety Board (CMSB), to promulgate regulations to ensure safe and healthy working conditions in underground mines in the Commonwealth. Also, [§ 45.1-161.206](#) of the Code specifically directs the Chief to promulgate regulations necessary to govern the use of diesel powered equipment in underground coal mines.

Alternatives to Regulation

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

This regulation is mandated by statute, so it must be maintained. The Chief, in consultation with the CMSB, has determined that this regulation is the least burdensome alternative to meet the purposes set out by the statute.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

DMME received no public comments following publication of the Notice of Periodic Review.

Effectiveness

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

This regulation is necessary for the protection of public health, safety, and welfare. The regulation is vital to ensuring the safety of underground coal mines in the Commonwealth. The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

DMME recommends that this regulation stay in effect without change.

Small Business Impact

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

As discussed above, this regulation is mandated by statute. In conjunction with the CMSB, the Chief has determined this regulation is effective as currently written and does not burden small businesses. There are no known overlaps or conflicts with federal or state law.
