



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Mines, Minerals and Energy
<b>Virginia Administrative Code (VAC) citation</b>	4 VAC 25-20
<b>Regulation title</b>	Board of Coal Mining Examiners Certification Requirements
<b>Action title</b>	Amendments to reduce regulatory burden on applicants for certification in advanced first aid instruction
<b>Date this document prepared</b>	November 7, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

This proposed regulation would reduce regulatory burden on applicants for certification in advanced first aid instruction in coal mines but increasing the number of acceptable programs for training. The regulation would also allow for recertification every two years as opposed to the current annual requirement.

### 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 6, 2012, the Board of Coal Mining Examiners (BCME) voted unanimously to amend the Board of Coal Mining Examiners Certification Requirements regulation.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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[§ 45.1-161.28](#) of the Code of Virginia authorizes the BCME to promulgate regulations necessary or incidental to the performance of its duties. [§ 45.1-161.34](#) mandates that the BCME promulgate regulations establishing requirements for programs of continuing education for holders of certification

## 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 the regulation 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.*

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The purpose of this regulation is to reduce regulatory burden on those applying for certification in advanced first aid instruction by increasing the number of training programs in CPR from which applicants can select. The current regulation only allows two options and other programs currently exist which are less expensive and may better fit the applicants' needs.

## Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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This regulation reduces regulatory burden, lowers cost and increases the options for the regulated community. Therefore, it is expected to be noncontroversial.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the “Detail of changes” section.) Please be sure to define any acronyms.*

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This regulatory action amends two sections related to certification for advanced first aid instruction. The first change would allow for annual refresher training and recertification every two years for CPR, as opposed to the current annual recertification requirement. Certifications offered by entities such as the American Red Cross are typically good for two years. The second change would increase the number of acceptable training programs applicants can complete in order to receive certification.

**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.*

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The primary advantage to this regulation is to reduce costs and burdens on the regulated community; it will have no impact on state government or localities. There are no known disadvantages.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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There are no requirements in the regulation that are more restrictive than applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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No locality is particularly affected by the proposed regulation. Coal mining in the Commonwealth occurs exclusively in the far Southwest portion of the state.

**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.*

The amendments to this regulation would result in lessened regulatory burden. The only alternative would be to not amend the regulation which unnecessarily burdens the regulated community.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	\$0. There may be a slight benefit to the state in the form of fewer annual applications for certification.
<b>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</b>	\$0. This regulation does not affect localities.
<b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b>	This regulation affects coal mine operators and those workers who apply for certification in advanced first aid instruction. Typically, operators will bear the cost of the training in this area.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are approximately 15-20 operators with 45 active underground coal mines in the Commonwealth. In calendar year 2011, DMME processed 826 persons. This number could decrease in the future due to market conditions.
<b>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b>	This regulation actually lowers costs for the regulated community. By allowing CPR training to be provided by more than the two currently enumerated entities, operators can utilize other entities that can provide the training at significantly lower costs.  There are no costs related to the development of real estate.
<b>Beneficial impact the regulation is designed to produce.</b>	The regulation reduces regulatory burdens on coal mine operators and applicants for certification.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

Other than maintaining the status quo, there are no viable alternatives to the proposed regulation. Maintaining the status quo would unnecessarily limit the options for CPR training for applicants for certification in advanced first aid instruction.

**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.*

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

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre-emergency** regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
210	n/a	Recertification required annually	Recertification every two years with an annual refresher. This will coincide with the timeframe offered for most

			recertification classes. This will lower cost for operators and increase flexibility for applicants.
220	n/a	“Applicants shall also be certified in cardiopulmonary resuscitation by the American Heart Association or the American Red Cross.”	Allow for other approved programs besides those two specifically named. This will increase options for applicants and potentially lower cost for operators.