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Fast-Track Regulation Agency Background Document

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) citation(s)	4 VAC 25-35
Regulation title(s)	Certification Requirements for Mineral Miners
Action title	Regulatory Amendments to Expand Opportunities for Certified Coal Miners
Date this document prepared	August 24, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The sole purpose of this regulatory action is to allow surface coal miners with valid certification to obtain a General Mineral Miner certification without having to receive unnecessary and duplicative training.

Acronyms and Definitions

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

DMM = Division of Mineral Mining
DMME = Department of Mines, Minerals and Energy
GCM = General Coal Miner certification
GMM = General Mineral Miner certification

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 August 24, 2015, DMME adopted the amendments to the Certification Requirements for Mineral Miners.

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.

[§ 45.1-161.292:19](#) of the Code of Virginia allows DMME to require certification of persons who work in mineral mines and to promulgate regulations necessary to the certification process.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.

The purpose of this regulation is to allow coal miners to easily transition to other areas of the mining industry. Promoting economic development is one of the core functions of DMME and increasing the number of certified mineral miners could help grow the mineral mine industry.

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?

This rulemaking is noncontroversial because it removes unnecessary and duplicative barriers to certification. The training needed to safely work on a surface coal mine is virtually identical to the training needed to safely work on a mineral mine site. This regulatory action would give coal miners the opportunity to seamlessly obtain GMM certification.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

The only substantive change in this regulation allows for miners with a valid GCM surface certification to obtain GMM certification without going through training they have already received.

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 Commonwealth are removing unnecessary and duplicative barriers to certification and allowing for employees in a depressed industry to more smoothly transition to another industry. 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.

There are no 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.

No localities would be particularly affected by this fast-track regulatory action.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.

This regulation eliminates duplicative and unnecessary requirements and allows an opportunity for coal miners to transition into another line of work. There is no other means by which to accomplish this goal other than changing the regulation.

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.

<p>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</p>	<p>There may be a slight increase in administrative costs to process certifications. However, this would be partially offset by the existing \$10 processing fee that would accompany the GMM certification application. In any event, any increase in cost would not be significant and could be easily absorbed by DMME.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>\$0. Localities are not affected by this regulation.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>This regulation primarily affects miners with a valid GCM certification that wish to obtain a GMM certification. Mineral mine operators would be indirectly affected because this regulation could increase the number of certified miners available.</p>
<p>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. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Approximately 150 of the 441 existing mineral mine permits are held by small businesses.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) 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.</p>	<p>By eliminating certification requirements for miners with a valid GCM to obtain a GMM certification, this regulation would save costs for those miners.</p> <p>Mineral mine operators are already required to ensure workers on site are appropriately certified. This regulation does not change that. It should not affect administrative costs.</p> <p>There are no costs related to the development of real estate.</p>
<p>Beneficial impact the regulation is designed</p>	<p>The regulation is designed to allow coal miners an</p>

to produce.	opportunity to transition seamlessly to mineral mining.
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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.

One alternative is to require miners who possess a valid GCM certification to meet all existing requirements for a GMM certification. This would result in miners receiving duplicative training and suffering needless expenses to acquire it.

Public participation notice

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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of this 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.

To the extent this regulation allows coal miners to maintain gainful employment, it could strengthen the institution of the family.

Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
120	N/A	No allowance for recognizing GCM as suitable certification.	New language would allow miners with a valid GCM to receive a GMM certification.