

BOARD OF COAL MINE EXAMINERS CERTIFICATION REGULATIONS

4 VAC 25-20-10. [Repealed]

4 VAC 25-20-15. Definitions.

A. This chapter works with the Virginia Mine Safety Act, Title 45.1 of the Code of Virginia. Refer to §45.1-161.8 for other definitions related to this chapter.

B. The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Appropriately related work experience" means work experience which demonstrates the applicant's skill and level of responsibility in performing tasks, and prepares and equips him to perform in the capacity of a certified person.

"BCME" means Board of Coal Mining Examiners.

"Chief" means the Chief of the Division of Mines.

"DMME" means the Department of Mines, Minerals and Energy.

"Division" means the Division of Mines.

"DMLR" means Division of Mined Land Reclamation.

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"EMT" means emergency medical technician.

"GCM" means general coal miner.

"MSHA" means the Mine Safety and Health Administration.

"Virginia coal mine safety regulations" mean 4VAC25-50-10 through 4VAC25-120-10.

"Virginia Mine Safety Act" means Chapters 14.2 (§45.1-161.7 et seq.) through 14.6 (§45.1-161.304 et seq.) and Chapter 18 (§45.1-221 et seq.) of Title 45.1 of the Code of Virginia.

4 VAC 25-20-20. General requirements.

A. Applicants shall submit the Application for Certification Examination, Form DM-BCME-1.

B. Applicants shall submit the Verification of Work Experience Form DM-BCME-2 and documentation of experience for approval by the chief if required for the certification.

This information shall be signed by a company official knowledgeable of the experience of the applicant and shall be notarized.

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C. Applicants shall submit a valid standard or advanced first aid certificate or card, first responder card, MSHA Form 5000-23 with the new miner training or annual refresher portion completed, or Emergency Medical Technician Certification except where noted. First aid shall be a component of training and examination for all certifications issued by the BCME.

D. Applicants shall submit documentation of all degrees, continuing education, and other training if required for certification.

E. Applicants shall submit a \$10 fee to take each examination or to retake all or part of an examination. ~~Refer to §45.1-161.31 of the Code of Virginia for acceptable forms of payment.~~

F. The Application for Certification Examination and the applicable fees shall be submitted at least five working days prior to the examination.

G. Applicants shall fulfill the requirements of this section and accumulate the required years of experience no later than five years after passing the examination.

H. Those applicants not meeting the requirements of subsection G of this section shall begin the application process again, submitting a new application, taking the examination again, and paying the fee. A work experience form shall only be submitted if the applicant needs to update information.

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I. Certificate holders shall notify the division office within 90 days of a change in their name, their mailing address, or the status of any certification required by this chapter.

Failure to do so may prevent the division from notifying the certificate holder of the certification requirements. The last known address reported to the division will be used to mail notices and information.

~~J. The division shall mail notices to certificate holders, which state the deadline for completion of requirements and the conditions under which the certificate may be suspended or revoked.~~

4 VAC 25-20-30. Examination requirements.

A. Applicants for first class mine foreman, surface foreman, surface blaster, and underground shot firer certifications shall score at least 85% on each section of the written examination. Applicants for all other certifications shall score at least 80% on each section of the written examination.

B. If all or part of an examination is failed, then the applicant shall wait at least 10 working days after the notification letter has been sent before retaking the failed section or sections.

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C. If a section of the examination is failed a second time, then the applicant shall wait at least 10 working days after the notification letter has been sent before retaking the entire examination.

D. If the examination is failed on the third try, then the applicant shall wait the greater of one year from the date of the first examination or 10 working days after the notification letter has been sent before he may begin the examination cycle again.

E. If one year passes prior to the third take of the examination, the certification cycle shall start over with a new application, fee, and examination. A work experience form shall only be submitted if the applicant needs to update information.

F. An examination for certification may not be taken more than three times in one year. If a person fails any section or sections of a segmented underground mine foreman or electrical repairman examination, then the second take of the exam shall include only those sections failed during the first take, and shall be given only after the person has completed the first take of all exam segments. If a person fails any section during the second take of the exam, then the person shall take the complete examination for the third take of the exam.

G. Applicants for certifications shall also pass the gas detection examination unless already certified in gas detection except as noted in the certification requirements in Part II (4VAC25-20-50 et seq.) of this chapter.

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4 VAC 25-20-40. Requirements for reciprocity.

A. Reciprocity shall be available for persons certified by states which accept the corresponding Virginia certifications and whose certification requirements are substantially equivalent to Virginia's.

B. If reciprocity is requested by a person certified in another state which accepts the corresponding Virginia certification, a current copy of the pocket card or certificate, and documentation from the other state shall be submitted in addition to fulfilling the requirements in 4 VAC 25-20-20 and meeting other conditions established in the reciprocity agreement between the two states. These conditions shall at a minimum include the following:

1. Applicants for electrical reciprocity must pass the practical and the mine electrical records sections of the Virginia exam.
2. Applicants for mine foreman will be required to take the Virginia Mining Law and Mine Records sections of the Virginia exam.
3. Applicants for advanced first aid, who hold a current mine emergency technician certification from another state would be required to take the eight hours of

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training with regard to re-certification of CPR and the elements relevant to the advanced first aid program in Virginia.

C. Applicants for a surface blaster certification shall pass any other examinations required by the DMLR with a score of at least 85% and meet any corresponding DMLR requirements.

4 VAC 25-20-45. Approval of continuing education programs and sponsors.

A. Colleges, universities, training companies, manufacturers, operators, other organizations and persons who wish to sponsor a continuing education program shall submit information to the chief which explains how their program will meet the Requirements outlined in this chapter. The request shall include a description of the proposed training, the instructor's name and certification numbers, and the tentative schedule and location. Applicants approved to provide training shall notify the Division of the final schedule as soon as is practical.

B. Applicants who wish to have continuing education approved for credit shall submit information to the chief which explains how the training they attended meets the requirements outlined in this chapter. The request shall include a description of the training, the instructor's name and certification numbers, and the date, time and location of the training.

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C. The chief shall notify the applicant in writing of his decision to approve or disapprove the training.

Part II**Certification Requirements****4 VAC 25-20-50. First class mine foreman.**

A. Applicants shall possess five years mining experience, three of which shall be underground, and shall pass the first class mine foreman, map, and gas detection examinations.

B. Applicants shall be given three years credit for a degree in mining engineering from an approved four-year college or two years credit for a degree in mining technology.

C. Applicants shall be at least 23 years of age.

D. Beginning August 20, 1997, certified mine foremen shall complete the continuing education requirements in this section within two years from the date of their certification and every two years thereafter. The holder of the certificate shall submit documentation to the division indicating the required continuing education has been completed prior to these deadlines.

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E. The holder of the certificate, in order to receive continuing education credit, shall satisfactorily complete a first class mine foreman continuing education course approved by the chief and taught by a certified instructor or other instructor approved by the chief.

F. The first class mine foreman shall complete at least four hours of continuing education every two years.

G. The content of the continuing education course shall include, but is not limited to, the:

1. Coal Mine Safety Act, Chapter 14.2 (§45.1-161.7 et seq.) of Title 45.1 of the Code of Virginia;
2. Virginia coal mine safety regulations;
3. Responsibilities of first class mine foreman;
4. Virginia coal mine safety policies and division operators' memos; and
5. Review of fatalities and accident trends in Virginia underground coal mines.

H. A maximum of four hours in excess of the required hours may be carried over to the next continuing education period.

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I. Failure to complete continuing education requirements shall result in suspension of a person's certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, the certification shall be revoked by the BCME.

J. The division shall send notice of any suspension to the last address the certified person reported to the division in accordance with 4VAC25-20-20 I ~~and to the last employer address reported to the division.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-60. First class shaft or slope foreman.

A. Applicants shall possess five years mining work experience at a shaft or slope or appropriately related work experience approved by the chief.

B. Applicants shall pass the first class shaft or slope foreman and gas detection examinations.

C. Applicants may be given three years credit for a degree in mining engineering or two years credit for a degree in mining technology.

4 VAC 25-20-70. Surface foreman.

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- A. Applicants shall possess five years of surface coal mining experience.
- B. Applicants shall pass the surface foreman, first aid, and gas detection examinations.
- C. Beginning August 20, 1997, certified persons shall complete the continuing education requirements in this section within two years from the date of their certification and every two years thereafter. The holder of the certificate shall submit documentation to the division indicating the required continuing education has been completed prior to these deadlines.
- D. The holder of the certificate, in order to receive continuing education credit, shall satisfactorily complete a surface foreman continuing education course approved by the chief and taught by a certified instructor or other instructor approved by the chief.
- E. The surface foreman shall complete at least four hours of continuing education every two years.
- F. The content of the continuing education course shall include, but is not limited to, the:
1. Coal Mine Safety Act, Chapter 14.2 (§45.1-161.7 et seq.) of Title 45.1 of the Code of Virginia;
 2. Virginia coal mine safety regulations;

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3. Responsibilities of surface foreman;
 4. Virginia coal mine safety policies and division operators' memos; and
 5. Review of fatalities and accident trends in Virginia surface coal mines.
- G. A maximum of four hours in excess of the required hours may be carried over to the next continuing education period.
- H. Failure to complete continuing education requirements shall result in suspension of a person's certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, the certification shall be revoked by the BCME.
- I. The division shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4VAC25-20-20 I ~~and to the last employer address reported to the division.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-80. Surface blaster.

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A. Applicants shall possess one year blasting experience on a surface mine under the direction of a certified surface blaster or appropriately related work experience approved by the chief.

B. Applicants shall pass the surface blaster examination and the endorsement section of the examination required by the DMLR and meet any corresponding DMLR requirements in 4VAC25-130-850.14. The gas detection examination is not required.

C. Certified surface blasters must be re-certified in accordance with the DMLR requirements in 4VAC25-130-850.15. To remain certified, a blaster shall be re-certified every five years by:

1. Presenting written proof that he has demonstrated blasting competency in his work during two of the last three years immediately preceding the expiration date;
or

2. Retaking and passing the mined land reclamation portion of the blaster exam.

D. An applicant who fails the exam shall complete the training required by DMLR regulations in 4 VAC 25-130-850.13 and pass the coal surface blaster's exam prior to re-certification.

4 VAC 25-20-90. Underground shot firer.

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A. Applicants shall possess two years coal mining experience underground, one year of the two years shall have included handling and using explosives underground under the direction of a certified underground shot firer, or appropriately related work experience approved by the chief.

B. Applicants shall pass the underground shot firer and gas detection examinations.

C. Twelve months after the effective date of this regulation, a certified underground shot firer must be re-certified every five years by:

1. Presenting written proof that he has performed underground blasting duties in his work during two of the last three years immediately preceding the expiration date;
2. Retaking and passing the underground shot firer examination; or
3. Presenting verification of completion of underground mine foreman or other continuing education which included underground blasting safety training.

D. Failure to maintain education or training requirements shall result in suspension of a person's certification pending completion of continuing education or training. If the continuing education or training requirement is not met within two years from the suspension date, the certification shall be revoked by the BCME.

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E. The division shall send notice of any suspension to the last address the certified person reported to the division in accordance with 4VAC25-20-20 I. Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-100. Underground electrical repairman.

A. Applicants shall possess one year of electrical experience in underground coal mining under the direction of a certified underground electrical repairman or appropriately related work experience approved by the chief.

B. Applicants shall pass the underground electrical repairman and gas detection examinations.

C. Applicants may be given six months credit for electrical educational training from a college, technical school, or vocational school.

D. Applicants who are certified may perform electrical work at underground ~~and surface~~ locations.

E. Continuing education requirements.

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1. An underground electrical repairman certification shall remain valid if the certified person meets the MSHA annual retraining requirements (30 CFR 75.153(g)).
2. Submission of a copy of documentation sent to MSHA shall be acceptable to meet this requirement.
3. If a certificate expires because the certificate holder fails to complete the electrical retraining requirements, then the holder of the expired certificate shall meet requirements of Part I (4VAC25-20-10 et seq.) of this chapter and pass the electrical repairman examination prior to reinstatement of certification by the board.

4 VAC 25-20-110. Surface electrical repairman.

- A. Applicants shall possess one year of electrical experience in surface coal mining under the direction of a certified surface electrical repairman or appropriately related work experience approved by the chief.
- B. Applicants shall pass the surface electrical repairman and gas detection examinations.
- C. Applicants may be given six months credit for electrical educational training from a college, technical school, or vocational school.

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D. Applicants who are certified may perform electrical work at surface locations only.

E. Continuing education requirements.

1. A surface electrical repairman certification shall remain valid if the certified person meets the MSHA annual electrical retraining requirements (30 CFR 75.153(g)).
2. Submission of a copy of documentation sent to MSHA shall be acceptable to meet this requirement.
3. If a certificate expires because the certificate holder fails to complete the retraining requirements, then the holder of the expired certificate shall meet requirements of Part I (4VAC25-20-10 et seq.) of this chapter and pass the surface electrical repairman examination prior to reinstatement of certification by the board.

4 VAC 25-20-120. Electrical maintenance foreman (surface and underground).

A. Applicants shall hold a valid electrical repairman certification prior to being eligible to take the appropriate electrical maintenance foreman examination and shall pass the appropriate electrical maintenance foreman examination.

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B. Applicants shall possess three years electrical experience as applied to underground mining or appropriately related work experience approved by the chief.

C. Applicants may be given one year credit for an electrical engineering degree, or six months credit for electrical education training from a technical or vocational school.

D. Applicants who become certified may perform electrical work at surface and underground locations.

E. Applicants must meet continuing education requirements in subsection E of 4VAC25-20-100 for an electrical repairman.

4 VAC 25-20-125. Electrical maintenance foreman (surface).

A. Applicants shall hold a valid electrical repairman certification prior to being eligible to take the appropriate electrical maintenance foreman examination and shall pass the electrical maintenance foreman examination.

B. Applicants shall possess three years electrical experience as applied to surface mining or appropriately related work experience approved by the chief.

C. Applicants may be given one year credit for an electrical engineering degree, or six months credit for electrical education training from a technical or vocational school.

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D. Applicants who become certified may perform electrical work at surface locations only.

E. Applicants must meet continuing education requirements in subsection E of 4VAC25-20-100 for an electrical repairman.

4 VAC 25-20-129. Chief electrician (surface and underground).

A. Applicants shall hold a valid electrical repairman and electrical maintenance foreman certification prior to being eligible to take the chief electrician examination and shall pass the appropriate chief electrician examination.

B. Applicants shall possess five years electrical experience or appropriately related work experience approved by the chief and shall meet continuing education requirements in subsection E of 4VAC25-20-100 for an electrical repairman.

C. Applicants who become certified may perform electrical work at surface and underground locations.

4 VAC 25-20-130. Chief electrician (surface).

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A. Applicants shall hold a valid electrical repairman and electrical maintenance foreman certification prior to being eligible to take the chief electrician examination and shall pass the appropriate chief electrician examination.

B. Applicants shall possess five years electrical experience or appropriately related work experience approved by the chief and shall meet continuing education requirements in subsection E of 4VAC25-20-100 for an electrical repairman.

C. Applicants who become certified may perform electrical work at surface locations only.

4 VAC 25-20-140. Hoisting engineer.

A. Applicants shall possess two years of practical mining experience and one year of hoisting experience under the direction of a certified hoisting engineer or appropriately related work experience approved by the chief. A certified hoisting engineer shall verify the hoisting experience.

B. The applicant shall pass the hoisting engineer and gas detection examinations.

C. After the examination has been successfully completed, the applicant shall obtain written permission from a mine official to have a representative from the division observe

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the applicant's operation of hoisting equipment at the mine. Permission shall be on company stationery, signed by the company official, and submitted to the division.

D. A certified hoisting engineer may act as an automatic elevator operator after completing the on-site demonstration required by 4VAC25-20-240 C.

E. A hoisting engineer must be re-certified every five years by:

1. Presenting written proof that he has performed hoisting engineer duties in his work during two of the last three years immediately preceding the expiration date;
or
2. Retaking and passing the practical demonstration section of the hoisting engineer examination and meeting requirements of part C of this section.

F. Failure to maintain education or training requirements shall result in suspension of a person's certification pending completion of continuing education or training. If the continuing education or training requirement is not met within two years from the suspension date, the certification shall be revoked by the BCME.

G. The division shall send notice of any suspension to the last address the certified person reported to the division in accordance with 4VAC25-20-20 I. Upon request, DMME will

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provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-150. Top person.

A. Applicants shall possess one year of practical mining experience with at least 30 days under the direction of a certified top person or appropriately related work experience approved by the chief.

B. Applicants shall pass the top person, first aid, and gas detection examinations.

C. This certification shall not be used in lieu of any other certification.

4 VAC 25-20-160. Preparation plant foreman.

A. Applicants shall possess five years coal mining experience, at least one year shall be at a preparation plant, or appropriately related work experience approved by the chief.

B. Applicants shall pass the preparation plant foreman and gas detection examinations.

C. Applicants may be given three years credit for a degree in mining engineering or two years credit for a degree in mining technology.

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4 VAC 25-20-170. Dock foreman.

A. Applicants shall possess one year experience at a dock or appropriately related work experience approved by the chief.

B. Applicants shall pass the dock foreman and gas detection examinations.

C. This certification shall not be used in lieu of any other certification.

4 VAC 25-20-180. Mine inspector.

A. Applicants shall possess mining experience as described in §45.1-161.20 of the Code of Virginia.

B. Applicants shall be given three years credit for a degree in mining engineering from an approved four-year college.

C. Applicants shall hold a valid First Class Mine Foreman Certificate.

D. Applicants shall meet the continuing education requirements of 4VAC25-20-50 for first class mine foreman.

E. Applicants shall pass the mine inspector examination.

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F. A certificate will not be issued until an applicant is employed by the DMME and shall only remain valid while the person is employed by the department.

4 VAC 25-20-190. Underground diesel engine mechanic.

A. All maintenance work performed on diesel engines used to power equipment in underground coal mines shall be performed by, or under the direct supervision of, a person possessing a Diesel Engine Mechanic Certificate issued by the BCME. In addition, no operator of an underground coal mine in the Commonwealth of Virginia may use diesel-powered equipment in the mine without first employing a diesel engine mechanic who is certified by the BCME.

B. "Maintenance" shall include all of the tasks required to be performed routinely to ensure that the engine exhaust emissions conform with the requirements of the laws and regulations of Virginia and MSHA, and with the maintenance recommendations of the manufacturer of the engine.

C. Applicants shall possess six months experience as a diesel engine mechanic, complete a diesel engine mechanic course approved by the division, or possess appropriately related work experience approved by the chief. A one-year diesel engine mechanic program approved by the division may be substituted for the diesel engine mechanic experience.

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D. Applicants shall pass the underground diesel engine mechanic, first aid, and gas detection examinations.

E. The initial training course for diesel engine mechanics shall include at least 32 hours of classroom instruction and be taught by a certified instructor.

F. To qualify for approval by the chief, the content of the initial training course for diesel engine mechanics shall include, but is not limited to:

1. Diesel engine principles;
2. Diesel fuel and fuel systems;
3. Engine exhaust systems;
4. State and federal diesel laws and regulations;
5. Safe use of equipment;
6. Emission controls, testing procedures and record keeping; and
7. Protection of health of workers exposed to diesel equipment.

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G. The annual continuing education course for diesel engine mechanics shall include at least four hours of classroom instruction and be taught by a certified instructor.

H. The content of the continuing education course shall include, but not be limited to:

1. Diesel technology;
2. State and federal diesel laws and regulations;
3. Safe use of equipment;
4. Protection of the health of workers exposed to diesel equipment; and
5. Required emission test procedures and record keeping.

I. A Diesel Engine Mechanic Certificate shall remain valid until December 31 following the anniversary date of the initial training, providing the certification requirements are met, unless the certificate is revoked by the BCME.

J. The holder of the certificate shall renew the certificate by satisfactorily completing a diesel engine mechanic continuing education course approved by the chief and taught by a certified instructor.

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K. The holder of the certificate shall submit documentation to the division indicating the required continuing education has been completed before the expiration of the card.

L. Failure to complete the required education shall result in suspension of certification pending completion of continuing education. If the continuing education requirement is not met within two years from the suspension date, then the certification shall be revoked by the BCME.

M. The division shall send notice of any suspension to the last known address that the certified person reported to the division in accordance with 4VAC25-20-20 I. ~~and to the last known employer address.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-200. Diesel engine mechanic instructor.

A. Applicants shall have teaching experience and be a certified diesel engine mechanic or possess appropriately related work experience approved by the chief.

B. Applicants shall maintain the certificate by teaching at least one approved diesel engine mechanic course every two years or at least one approved diesel engine mechanic continuing education course every year.

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C. Documentation shall be submitted to the division indicating the required teaching has been completed.

D. Failure to complete the required teaching shall result in suspension of the certification. Applicants may meet the teaching requirement by teaching under the supervision of a certified diesel mechanic engine instructor. If the teaching requirement is not met one year from suspension, then the certification shall be revoked by the BCME.

E. The division shall send notice of any suspension to the last known address that the certified person reported to the division in accordance with 4VAC25-20-20 I. ~~and to the last known employer address.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-210. Advanced first aid.

A. Applicants shall complete a 24-hour advanced first aid class, at minimum, taught by a certified advanced first aid instructor or possess appropriately related work experience approved by the chief and pass the advanced first aid examination.

B. Approved advanced first aid classes shall cover the following subjects:

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1. Introduction to first aid;
2. Respiratory emergencies and cardiopulmonary resuscitation; i.e., heart saver or other four-hour equivalent;
3. Removal of foreign bodies from the throat (the Heimlich Maneuver);
4. Wounds;
5. Shock;
6. Specific injuries including head and chest;
7. Contamination, infection, and prevention;
8. Burns;
9. Cold exposure and frost bite;
10. Bone and joint injuries;
11. Dressings and bandages;

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12. Sudden illness;
13. Emergency underground rescue and transfer;
14. Unusual rescue situations related to mining;
15. Poisoning, toxic and hazardous materials;
16. Transportation of victims; and
17. Heat exposure.

C. An advanced first aid certification in good standing with the BCME shall remain valid until the last day of the month following the anniversary date of the initial training.

Certified persons shall complete four hours continuing education annually, which is taught by a certified advanced first aid instructor, to maintain their advanced first aid card. This continuing education requirement shall include recertification in CPR.

D. The holder of the certificate shall submit documentation to the division indicating the required continuing education has been completed.

E. Applicants holding a valid EMT card or EMT first responder card, shall be deemed eligible to receive advanced first aid certification without having to complete the initial

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advanced first aid class or without passing the advanced first aid examination. All applicants shall complete eight hours of continuing education. The advanced first aid certification shall start on the day the applicant's EMT certification or EMT first responder certification expires.

F. Failure to complete required continuing education shall result in suspension of the certification pending completion of the continuing education. If the continuing education requirement is not met within one year from the suspension date, then the certification shall be revoked by the BCME.

G. The division shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4VAC25-20-20 I. ~~and to the last known employer address.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-220. Advanced first aid instructor.

A. Applicants shall be certified as an advanced first aid instructor by the American Red Cross, National Safety Council, Virginia Emergency Medical Services, or as otherwise approved by the chief. Applicants shall also be certified in cardiopulmonary resuscitation by the American Heart Association or the American Red Cross. Advanced first aid

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instructors must use the materials and training aids necessary to deliver the skills and training associated with advanced first aid.

B. The holder of the certificate shall submit documentation to the division indicating that they have continued their certification as required by subsection A of this section or by teaching one initial or refresher first aid training course for DMME within a two-year period.

C. Failure to maintain a certified advanced first aid instructor's certification will result in suspension of the applicant's BCME certification. Applicants may meet the teaching requirement by teaching under the supervision of an advanced first aid instructor. If the certification is not renewed within one year from the suspension date, then the certification shall be revoked by the BCME.

D. The division shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4 VAC 25-20-20 I. ~~and to the last known employer address.~~ Upon request, DMME will provide the mine operator and other interested parties with a list of individuals whose certification is in suspension or has been revoked.

4 VAC 25-20-230. Surface facilities foreman for shops, labs and warehouses.

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A. Applicants shall possess one year work experience at a shop, lab or warehouse or appropriately related work experience approved by the chief.

B. Applicants shall pass the surface facilities foreman and gas detection examinations.

C. This certification shall not be used in lieu of any other certification.

4 VAC 25-20-240. Automatic elevator operator.

A. Applicants shall possess one year mining experience or appropriately related work experience approved by the chief.

B. Applicants shall pass the automatic elevator operator and gas detection examinations.

C. The applicant shall obtain written permission from a mine official to have a representative from the division observe the applicant's operation of an automatic elevator at the mine. Permission shall be on company stationery, signed by the company official, and submitted to the division prior to the scheduled observation. The applicant shall demonstrate proper use of the equipment.

4 VAC 25-20-250. Gas detection qualification.

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A. The applicant shall demonstrate the proper use of gas detection equipment and shall pass the gas detection examination. The applicant shall also demonstrate a practical knowledge of mine gases.

B. The general requirements of 4VAC25-20-20 shall not apply except the applicants shall complete Form DM-BCME-1.

4 VAC 25-20-255. General coal miner (GCM) surface and underground.

A. General coal miner certification, surface, authorizes work at surface mines, surface facility locations and surface areas of underground coal mines. This does not authorize underground duties at underground coal mines. General coal miner certification, underground, authorizes work at underground areas and surface areas of underground mines.

B. Applicants employed in Virginia coal mines prior to January 1, 1996, who wish to become certified shall:

1. Meet the requirements of Part I (4VAC25-20-10 et seq.) of this chapter;
2. Submit a notarized work experience form verifying (surface or underground) mining experience prior to January 1, 1996; and

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3. Pass the gas detection examination if they are not already gas detection qualified unless working only on the surface of a mine.

B. Applicants seeking certification after January 1, 1996, shall:

1. Meet the requirements of Part I (4VAC25-20-10 et seq.) of this chapter.
2. Complete training which shall include highlights of the coal mine safety laws of Virginia and the underground coal mine safety and health regulations of the division and the BCME. The training shall address surface mining requirements for the GCM Surface Certification or underground coal mining requirements for the GCM Underground Certification. The training shall include a demonstration of knowledge or passing of a written examination on Virginia's coal mine safety laws and regulations covering either surface or underground mining. First aid shall be included in the general coal miner training unless applicants submit new miner training or annual refresher training to meet first aid requirements.
3. Submit Form DM-BCME-3, Verification of Training Completed for General Coal Miner Certification, prior to commencing work in a coal mine. The form shall be signed by the employee and the instructor and the date they sign will be the effective date of the General Coal Miner certification.

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4. Pass the gas detection examination unless working only on the surface of a mine.

4 VAC 25-20-259. BCME instructor.

A. Instructors conducting training used to meet requirements of the BCME shall be certified unless otherwise approved in this chapter.

B. To become a certified instructor, the person shall:

1. Submit an application showing applicable mining knowledge and ~~or~~ instructor experience.
2. Agree to monitoring and evaluation by division instructors and demonstrate the knowledge, skill and ability to conduct training.
3. Agree to participate with division representatives in a review of the materials to be taught if they are not certified in the areas they wish to teach.
4. Provide students with the opportunity to critique the instructor's effectiveness by use of a critique form.

C. Final approval for certification shall be based on an evaluation of performance.

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D. Applicants shall maintain the certificate by teaching at least one approved certification course every two years.

E. The holder of the certificate shall submit documentation to the division indicating the required teaching has been completed.

F. Failure to re-certify shall result in suspension of the certification pending completion of the required teaching. Applicants may meet the teaching requirement by teaching under the supervision of a certified instructor. If the teaching requirement is not met within one year from the suspension date, then the certification shall be revoked by the BCME.

G. The division shall send notice of any suspension to the last known address of the certified person reported to the division in accordance with 4VAC25-20-20 I.

Part III

Certification Requirements for Mineral Mining [Repealed]

4 VAC 25-20-260 to 4VAC25-20-330. [Repealed]

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Part IV**On-Site Examination of Mine Foreman****4 VAC 25-20-340. Examinations.**

A. When a mine is issued a closure order or violation related to a hazardous roof or ventilation condition, the mine foreman may be examined to determine his knowledge of the roof control plan and ventilation requirements in the area of his responsibility at the mine. The examination shall be conducted on the surface at the mine site on the day the violation or closure order is issued.

B. The chief shall develop a pool of no more than 50 questions addressing the areas listed in subsection D of this section, which shall be approved by the BCME. These questions shall be available on request and should be incorporated as part of continuing education and other training for mine foremen.

C. A division inspector shall administer a written examination using 10 questions from the approved pool. The foreman shall answer eight out of 10 questions correctly to demonstrate thorough understanding of the mine's roof or ventilation plans. The Inspector shall select questions from the pool, which are most relevant to the conditions or practices resulting in the order of closure or violation.

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D. The mine foreman may refer to roof control, ventilation, bleeder, or other plans available to him when examined at the surface of an underground mine. Any mine foreman performing tasks requiring certification or otherwise directing work in ventilation or roof support shall be able to provide the following information:

1. Describe the roof control requirements set out in the mine's roof control plan in the area of the foreman's responsibility.
2. Describe the frequency and methods of any required testing of roof, face and ribs in the area of the foreman's responsibility.
3. Show how the roof control practices in the area of the foreman's responsibility comply with the requirements of the roof control plan.
4. Describe the frequency and contents of any pre-shift, on-shift, and when applicable, weekly examinations of mine ventilation required in the area of the foreman's responsibility.
5. Describe the requirements for action under the mine's fan stoppage plan in the area of the foreman's responsibility.
6. Describe any requirements for face ventilation controls used in the area of the foreman's responsibility.

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7. Describe any requirements under the mine bleeder plan in the area of the foreman's responsibility.

8. Describe the requirements for mine ventilation controls such as regulators, ventilation doors, and other similar controls in the area of the foreman's responsibility.

9. Describe the minimum volume of air required in the area of the foreman's responsibility.

10. Describe the minimum requirements for quality of air (oxygen, carbon dioxide, and methane) in the area of the foreman's responsibility.

11. Describe the procedure to follow in the area of the foreman's responsibility upon an accumulation of methane at:
 - a. 1.0% or greater not less than 12 inches from the roof, face, ribs, or floor;

 - b. Greater than 1.0% in a split that ventilates any group of active areas;

 - c. 1.5% (or 2.0% as applicable) in a split of air returning from areas where coal is being extracted or is capable of being extracted; or

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d. 5.0% or greater in any area of the mine.

E. The division inspector completing an examination of a foreman under this part shall discuss the results of the exam with the foreman before leaving the mine.

4 VAC 25-20-350. Actions brought before the BCME.

A. The examination shall be the basis of any enforcement action brought before the board for failure to display a thorough understanding of the roof control plan and ventilation for the area of the mine for which he is responsible.

B. Refusal of the foreman to submit to examination will constitute just cause to be brought before the board and may result in suspension of certification and revocation of certification by the board.

Part V

Guidelines for On-Site Examination of a Mine Foreman

4 VAC 25-20-360. Purpose and scope.

A. Section 45.1-161.35 A of the Code of Virginia provides for on-site examination of a mine foreman by a mine inspector to determine that the foreman has a thorough

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understanding of the roof control plan and ventilation for the area of the mine for which he is responsible. The procedures followed by the inspector in conducting an on-site examination of a mine foreman must be consistent with requirements in Part IV (4VAC25-20-340 et seq.) of this chapter. This includes the use of questions approved by the board, which are administered in accordance with this chapter.

B. The purpose of examining a mine foreman is to measure and evaluate his knowledge and understanding of mine roof control and ventilation for the areas of his responsibility. Mine foremen are required to demonstrate this and other elements of mine safety when they become certified to act as mine foremen in the Commonwealth of Virginia.

C. An on-site examination by the mine inspector will only be initiated when there is just cause that the foreman has failed to maintain safe roof control and ventilation for his area of responsibility at the mine. Just cause for an on-site examination of a mine foreman by a mine inspector must be based on issuance of an order of closure or violation related to a hazardous condition pertaining to roof control or ventilation.

4 VAC 25-20-370. Determination by the inspector to conduct an on-site examination.

A. An order of closure issued in accordance with §45.1-161.91 of the Code of Virginia, or notice of violation issued in accordance with §45.1-161.90 of the Code of Virginia that relate to roof control or ventilation hazards, shall be reviewed at the time it is issued for

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evidence of mine foreman negligence, which could require on-site examination of the mine foreman by the mine inspector. In making the determination whether or not to conduct an on-site examination, the mine inspector must establish the following:

1. The roof or ventilation hazards cited resulted from performing his duties with less than ordinary care. Ordinary care means the use of such care as a reasonably prudent and careful mine foreman could use under similar circumstances.
2. The mine foreman knew or should have known of the existence of the hazardous condition.

B. When these criteria have been established, the mine inspector will undertake an on-site examination of the mine foreman.

4 VAC 25-20-380. Notification of intent to conduct an on-site examination.

A. The mine inspector will notify the mine foreman of an order of closure or notice of violation for a hazardous condition related to roof control or ventilation in the area of the foreman's responsibility. The inspector will let him know that he intends to invoke the provision of the law for an on-site examination of the foreman.

B. The following approach will be taken by the mine inspector in giving notice to the mine foreman:

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1. The notification will be given by the inspector in private.
2. The inspector will be courteous and professional in explaining the reason for the on-site examination.
3. The inspector will explain the procedures he will follow in conducting the on-site examination.

4 VAC 25-20-390. Procedures for conducting on-site examination.

A. The on-site examination of the mine foreman will be handled in such a way as to not prevent the foreman from performing his duties. The on-site examination must be conducted, to the extent possible, immediately on arrival outside on the surface on the day the order of closure or notice of violation is issued.

B. These procedures will be followed in conducting the on-site examination:

1. The examination will be administered in a written format.
- ~~2. Ten questions selected by the mine inspector will be written out by the mine inspector on paper for use in the on-site examination.~~

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3.2. The mine inspector will choose the 10 questions from the approved pool related to the condition or practice being cited by the order of closure or notice of violation.

~~4. The mine inspector will choose the 10 questions related to the condition or practice being cited by the order of closure or notice of violation.~~

5.3. The mine foreman will be provided sufficient time to write out his answers to the questions. He may refer to plans or other information available to him. However, no other person may assist him in answering the questions. The mine inspector will remain with the mine foreman during the written examination.

6.4. The mine inspector will read the questions being asked to the mine foreman if requested and should answer any questions from the mine foreman which could help to clarify his understanding of the questions.

7.5. The mine foreman may respond to the questions orally. In this case, the mine inspector will record the response of the mine foreman to each question on the examination form, have the foreman sign the form as accurately representing the response, and provide the mine foreman a copy promptly upon completion.

4 VAC 25-20-400. Results of the on-site examination.

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A. The mine inspector will promptly check the responses given by the mine foreman for each of the 10 questions asked. At least eight of the 10 questions must be answered correctly to successfully complete the on-site examination. The results of the on-site examination will be reviewed promptly with the mine foreman. A copy of the written on-site examination completed by the mine foreman will be provided to him promptly by the mine inspector.

B. The circumstances related to the on-site examination of the mine foreman, including pass or fail results, will be described in the inspector's report, and will be reviewed as part of the closeout of the scheduled inspection activity for the mine.

C. The chief will notify the mine foreman and mine operator in writing of the petition to the BCME for a formal hearing. Should a petition for a hearing be requested, the hearing would be conducted in accordance with Part VI (4VAC25-20-410 et seq.) of this chapter.

D. If a foreman successfully appeals a violation, which resulted in an on-site evaluation and further establishes to the BCME that he had a thorough knowledge of such plans, then the failure of the on-site examination shall not be used in any other revocation against the foreman.

Part VI**Hearing Procedures**

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4 VAC 25-20-410. Prehearing procedures.

A. Any person wishing to bring any matter before the board shall use these procedures except for good cause shown before the board.

B. Petitions for action by the board shall be in writing, shall state the grounds for the petition before the board, shall state the relief sought, and shall include any applicable supporting material, as set out below:

1. For certification to be revoked in accordance with §45.1-161.35 B of the Code of Virginia, the petitioner or petitioners shall submit specific charges, which set forth the reasons why the certification should be revoked.

2. To request a reexamination for a certificate revoked pursuant to §45.1-161.35 of the Code of Virginia, the holder of the revoked certificate shall submit a request for reexamination with evidence that the cause for revocation of his certificate has ceased to exist.

3. For other petitions before the board, the petitioner shall submit a written petition explaining the request being made and the relief being sought.

C. The division shall assign a docket number to all petitions before the board. The division shall provide written notice to all parties to any proceeding in accordance with

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§45.1-161.35 D of the Code of Virginia and the Administrative Process Act (§9-6.14:1 et seq. of the Code of Virginia).

D. Persons wishing to address the board, except those making a petition for board action, will be provided an opportunity at the conclusion of the board meeting.

E. Persons shall make any request for change to the board's regulations in accordance with the DMME and the board's Public Participation Guidelines, 4VAC25-10-10 et seq.

4 VAC 25-20-420. Conduct of formal hearings.

A. All hearings shall be heard during scheduled meetings of the board, on a case-by-case basis, in the order the petitions appear on the docket.

B. Hearings shall be held in the DMME, Big Stone Gap office, unless a different location is agreed to by mutual consent of the parties to the hearing and the Chairman of the BCME.

C. Hearings requiring case decisions shall be recorded.

D. Each party may be represented by an individual of choice or legal counsel.

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E. The chairman, with the concurrence of the majority of the board present at a hearing, shall have the authority to limit evidence to that relevant to the issues. Any proofs, rebuttal, and cross examination which are immaterial, insubstantial, privileged, or repetitive may be excluded.

F. The chairman may continue, adjourn and reconvene the hearing as necessary.

G. Decisions of the board shall be made based on a preponderance of the evidence placed before it.

4 VAC 25-20-430. Post-hearing procedures.

A. The board may require submittal of briefs from the parties to a hearing concerning the issues of record before the board. The board shall schedule submittal of briefs at the time of the hearing.

B. Transcripts of the proceeding shall be provided on request to any party to the hearing at cost. Motions to correct any transcript shall be filed within 10 working days after delivery of the transcript, and shall be ruled on by the chief within 10 working days after his receipt of the motion. Any corrections shall be sent to all parties to the hearing who have received a copy of the transcript.

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C. Decisions shall be rendered in writing and communicated to parties to the proceeding in accordance with the Administrative Process Act (§9-6.14:1 et seq. of the Code of Virginia).

FORMS

Application for Certification Examination, DM-BCME-1 (rev. 5/99).

Verification of Work Experience, DM-BCME-2 (Issued 2/1/96).

Verification of Training Completed for General Coal Miner Certification, DM-BCME-3 (Issued 2/1/96) (Rev.5/96).

Verification for Training Completed for Continuing Education, DM-BCME-4 (Issued 5/31/96).

Advanced First Aid Practical Stations & CPR (Written & Practical), DM-BCME-5 (Issued 10/24/96).

Application for Recertification: DMLR Endorsement/Blaster's Certification, DMLR-BCME-3 (Rev. 6/95).

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Application for DMLR Endorsement: Blaster's Certification (Coal Surface Mining Operation), DMLR-BCME-4 (Rev. 6/95).