



Virginia
Regulatory
Town Hall

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Final Regulation Agency Background Document

Agency name	Department of Mines, Minerals and Energy
Virginia Administrative Code (VAC) citation	4 VAC 25-50
Regulation title	Rules and Regulations Governing the Certification of Diesel Engine Mechanics in Underground Coal Mines
Action title	Repeal of Regulation
Date this document prepared	4/4/07

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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

The Board of Coal Mining Examiners (BCME) is repealing the regulation governing the certification of diesel engine mechanics in underground coal mines because the essential elements of the regulation have been incorporated into the regulation governing certification for coal miners. There have been no changes made since the regulatory action was published in its proposed version.

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On April 4, 2007, the Department of Mines, Minerals and Energy repealed the regulation entitled “Rules and Regulations Governing the Certification of Diesel Engine Mechanics in Underground Coal Mines”, 4 VAC 25-50.

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 Department of Mines, Minerals and Energy (DMME) has authority to repeal this regulation under authority found in § 45.1-161.3, Powers of the Department, and § 45.1-161.28, Powers of the Board of Coal Mining Examiners.

- Section 45.1-161.3 empowers DMME, with the approval of the Director, to promulgate regulations necessary or incidental to the performance of duties or execution of powers under Title 45.1 of the Code of Virginia.
- Section 45.1-161.28 of the Code of Virginia empowers the Board of Coal Mining Examiners to require certification of persons working in coal mines.

This authority is discretionary.

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 Board of Coal Mining Examiners (BCME) is repealing the regulation governing certification of diesel engine mechanics in underground coal mines because the essential elements of the regulation have been incorporated in the certification regulation for coal miners. The provisions of the regulation are intended to protect the health and safety of coal miners. The repeal of the regulation and incorporation of the provisions into a different regulation were recommended by industry and labor representatives who served on a regulatory review committee pursuant to an Executive Order establishing policies and procedures for a comprehensive review of all existing state regulations.

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.

This action repeals 4 VAC 25-50, Rules and Regulations Governing Certification of Diesel Engine Mechanics in Underground Coal Mines. Sections 10 through 110 of the regulation are repealed in their entirety. The provisions of the regulation have been incorporated into 4 VAC 25-20, Board of Coal Mining Examiners Certification Requirements.

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.

There are no advantages or disadvantages for the public in repealing the regulation. All provisions that protect coal miner health and safety have been incorporated into a different regulation, 4VAC 25-20. This action eliminates duplication in the Virginia Administrative Code.

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.

No changes have been made since the proposed stage.

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.

Commenter	Comment	Agency response

No comments were received.

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

This action repeals 4 VAC 25-50, Rules and Regulations Governing Certification of Diesel Engine Mechanics in Underground Coal Mines. Sections 10 through 110 of the regulation are repealed in their entirety. The provisions of the regulation have been incorporated into 4 VAC 25-20, Board of Coal Mining Examiners Certification Requirements.

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 provisions being repealed in this action have already been incorporated into another regulation. The action will complete the consolidation of regulations governing the certification of diesel engine mechanics in underground coal mines. There are no alternative regulatory actions that would accomplish this consolidation while protecting the health and safety of coal miners.

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 action is not anticipated to have any impact on the institution of family or family stability. The provisions of the regulation being repealed, which are intended to protect the health and safety of coal miners in Virginia, have been incorporated into another regulation.